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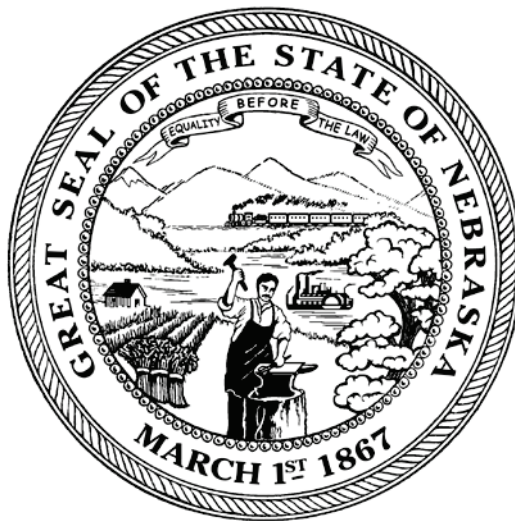
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Revisor of Statutes

For the benefit of the
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CHAPTER 46

IRRIGATION AND REGULATION OF WATER

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ARTICLE 1

IRRIGATION DISTRICTS

(a) ORGANIZATION OF DISTRICTS

Section

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(u) MERGER OF DISTRICTS

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(a) ORGANIZATION OF DISTRICTS

46-101 Irrigation District Act, how cited; irrigation districts; organization; grant of authority.

(1) Sections 46-101 to 46-1,163 shall be known and may be cited as the Irrigation District Act.

(2) Whenever a majority of the electors owning land or holding leasehold estates, or who are entrymen of government lands, in the manner and to the extent provided in the Irrigation District Act, in any district susceptible to one mode of irrigation from a common source and by the same system of works, desire to provide for the irrigation of the same, they may propose the organization of an irrigation district under the act, and when so organized, each district shall have the power conferred by law upon such irrigation district.

Source: Laws 1895, c. 70, § 1, p. 269; Laws 1903, c. 121, § 1, p. 615; Laws 1905, c. 165, § 1, p. 648; Laws 1913, c. 142, § 1, p. 343; R.S.1913, § 3457; Laws 1917, c. 80, § 1, p. 187; C.S.1922, § 2857; C.S.1929, § 46-101; Laws 1937, c. 103, § 1, p. 361; C.S.Supp.,1941, § 46-101; R.S.1943, § 46-101; Laws 2015, LB561, § 1.

46-102 Terms, defined.

(1) For purposes of the Irrigation District Act:

(a) Elector means any resident of the State of Nebraska, owning not less than fifteen acres of land, or who is an entryman of government land, within any irrigation district or proposed irrigation district, or any resident of the State of Nebraska holding a leasehold estate in not less than forty acres of state land within such irrigation district for a period of not less than five years from the date at which such elector seeks to exercise the elective franchise; and

(b) Residence means (i) that place in which a person is actually domiciled, which is the residence of an individual or family, with which a person has a settled connection for the determination of his or her civil status or other legal purposes because it is actually or legally his or her permanent and principal home, and to which, whenever he or she is absent, he or she has the intention of returning, or (ii) the place where a person has his or her family domiciled even if he or she does business in another place.

(2) If an elector resides outside of the irrigation district, the elector shall be considered an elector in the division of the irrigation district in which his or her land is situated or, if the elector is the owner of land in more than one division of the irrigation district, the elector shall be considered an elector in the division of the district in which the majority of his or her land is situated.

(3) In the case of land owned or leased by joint tenants, each joint tenant who is a resident of the State of Nebraska is an elector and entitled to vote if the

total acreage owned or leased per joint tenant is equal to or exceeds the minimum acreage requirements of subsection (1) of this section.

(4) In the case of land owned or leased by tenants in common, each tenant who is a resident of the State of Nebraska is an elector and entitled to vote if the total acreage owned or leased per tenant is equal to or exceeds the minimum acreage requirements of subsection (1) of this section.

(5) In the case of land owned or leased by a corporation, limited liability company, limited liability partnership, joint venture, or other legal entity which meets the minimum acreage requirements of subsection (1) of this section, the entity shall designate a shareholder, member, or partner of the entity who is a resident of the State of Nebraska to act as the elector on behalf of the entity. The entity shall identify its elector-designee in writing to the secretary of the board of directors of the irrigation district not less than thirty days prior to an irrigation district election.

(6) In the case of land owned or leased under a life tenancy, each remainderman who is a resident of the State of Nebraska is an elector and entitled to vote if the total acreage owned or leased per remainderman is equal to or exceeds the minimum acreage requirements of subsection (1) of this section.

(7) In the case of land held by a buyer in possession pursuant to a land-purchase contract when the total acreage under the land-purchase contract meets the minimum acreage requirements of subsection (1) of this section and the buyer in possession is a resident of the State of Nebraska and is responsible for paying the real property taxes and the irrigation fees and assessments, the buyer in possession is the elector.

(8) In the case of land owned or leased by a trust which meets the minimum acreage requirements of subsection (1) of this section, the trustee shall designate a trustor, beneficiary, or trustee of the trust who is a resident of the State of Nebraska to act as the elector on behalf of the trust. The trust shall identify its elector-designee in writing to the secretary of the board of directors not less than thirty days prior to an irrigation district election.

(9) In the case of a pending estate of a deceased elector involving land which meets the minimum acreage requirements of subsection (1) of this section, the duly appointed personal representative of the estate who is a resident of the State of Nebraska shall act as the elector on behalf of the estate.

(10) Prior to formation of an irrigation district, if two or more persons claim conflicting rights to vote on the same acreage, the election commissioner or county clerk shall determine the party entitled to vote. In such cases, the determination of the election commissioner or county clerk shall be conclusive. After formation of an irrigation district, if two or more persons claim conflicting rights to vote on the same acreage or any other conflict arises regarding the qualification of an elector, the secretary of the board of directors of the irrigation district shall determine the party entitled to vote. The secretary's determination shall be conclusive. If a claim involves the secretary of the board, the board of election for the affected irrigation district precinct shall determine the party entitled to vote. In such cases, the determination of the board of election shall be conclusive.

Source: Laws 1913, c. 142, § 1, p. 343; R.S.1913, § 3457; Laws 1917, c. 80, § 1, p. 188; C.S.1922, § 2857; C.S.1929, § 46-101; Laws 1937, c. 103, § 1, p. 362; C.S.Supp.,1941, § 46-101; R.S.1943, § 46-102; Laws 2015, LB561, § 2.

46-109 District; divisions; directors; number; election; terms.

(1) Except as otherwise provided in subsections (2) and (3) of this section, the county board shall make an order dividing the irrigation district into three divisions as nearly equal in size as may be practicable, which shall be numbered first, second, and third, and one director shall be elected for each division.

(2) After formation of an irrigation district, in districts comprising over twenty-five thousand acres, the electors thereof may determine by a majority vote to increase the number of directors in any multiple of three up to nine, whereupon the district may be divided into as many divisions as there are directors agreed upon. One-third of the number of directors so elected shall retire each year, and the order of their retirement may be agreed upon by the directors of the district, and successors shall be elected in the manner provided for the election of directors in other districts. The election for the increased number of directors shall be called upon a petition signed by twenty percent of the electors of the district presented to the then board of directors.

(3) After formation of an irrigation district, in districts comprising less than fifteen thousand acres, upon the majority vote of the board of directors, the question of whether the divisions in the irrigation district may be eliminated and the subsequent election of the directors conducted on an at-large basis may be submitted to the electors. The divisions in the district shall be eliminated and the directors elected on an at-large basis only upon the affirmative vote of two-thirds of the electors of the district.

Source: Laws 1895, c. 70, § 2, p. 271; Laws 1903, c. 121, § 1, p. 617; Laws 1909, c. 155, § 1, p. 560; R.S.1913, § 3458; Laws 1917, c. 81, § 1, p. 192; C.S.1922, § 2858; C.S.1929, § 46-102; Laws 1933, c. 87, § 1, p. 357; C.S.Supp.,1941, § 46-102; R.S.1943, § 46-109; Laws 1972, LB 1509, § 1; Laws 2015, LB561, § 3.

46-110 District; organization and officers; election; notice; voters; eligibility.

(1) After dividing the proposed irrigation district into divisions, the county board shall give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the Irrigation District Act. Such notice shall describe the boundaries as established and shall designate a name for such proposed district. The notice shall be published for at least three weeks prior to such election in a newspaper of general circulation in the county; and if any portion of such proposed district lies within another county or counties, then the notice shall be published in a newspaper of general circulation within each of such counties. The notice shall include the contents of the ballots to be cast and the date, time, place, and manner of the election, with instructions and deadlines to request and cast a ballot by mail. The ballot shall contain the words Irrigation district Yes, or Irrigation district No, or words equivalent thereto; and also the names of persons to be voted for to fill various elective offices prescribed in the Irrigation District Act.

(2) No person shall be entitled to vote at any election held under the Irrigation District Act unless he or she is qualified as an elector as provided in section 46-102. For any election under the Irrigation District Act, status as an elector shall be established by a record date designated by the election commissioner or county clerk for initial organization of the irrigation district or

designated by the secretary of the board of directors for all other elections. The record date shall not be more than thirty days prior to the election. After such record date, a person may be allowed to vote when such person establishes his or her status as an elector to the satisfaction of the election commissioner or county clerk for initial organization of the district or to the satisfaction of the secretary of the board of directors for all other elections. The determination of the election commissioner, county clerk, or secretary of the board of directors, as the case may be, shall be conclusive.

Source: Laws 1895, c. 70, § 2, p. 271; Laws 1903, c. 121, § 1, p. 617; Laws 1909, c. 155, § 1, p. 560; R.S.1913, § 3458; Laws 1917, c. 81, § 1, p. 193; C.S.1922, § 2858; C.S.1929, § 46-102; Laws 1933, c. 87, § 1, p. 357; C.S.Supp.,1941, § 46-102; R.S.1943, § 46-110; Laws 2015, LB561, § 4.

46-111 District; organization and officers; election; procedure; canvass of votes; order of board; filing; election precincts.

(1) Irrigation district elections shall be conducted in accordance with the Irrigation District Act.

(2) The county board shall meet on the second Monday next succeeding any irrigation district election or next succeeding the deadline for casting ballots in an irrigation district election by mail and canvass the votes cast at the election or by mail. If upon such canvass of the election for the formation of the district it appears that at least a majority of all votes cast are Irrigation district Yes, the county board shall by an order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style therefor designated, and shall declare the persons receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. The county board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county register of deeds of each county in which any portion of such lands are situated and shall also immediately forward a copy thereof to the clerk of the county board of each of the counties in which any portion of the district may lie; and no county board of any county, including any portion of such district, shall, after the date of the organization of such district, allow another district to be formed including any of the lands of such district, without the consent of the board of directors thereof. From and after the date of such filing, the organization of such district shall be complete, and the officers thereof shall be entitled to immediately enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices respectively until their successors are elected and qualified. For the purpose of the election for the formation of the district, the county board shall establish one or more election precincts in the proposed district, and define the boundary or boundaries thereof, which may thereafter be changed by the board of directors of such district.

Source: Laws 1895, c. 70, § 3, p. 272; R.S.1913, § 3459; Laws 1919, c. 111, § 1, p. 273; C.S.1922, § 2859; C.S.1929, § 46-103; R.S.1943, § 46-111; Laws 1951, c. 148, § 1, p. 595; Laws 2015, LB561, § 5.

Cross References

Election laws, generally, see Chapter 32.

Voting by mail, absentee voters, see sections 32-938 to 32-951.

Voting by mail, special election procedures, see sections 32-952 to 32-959.

46-115 Subsequent elections; manner; notice.

(1) Fifteen days before any election which is not held by mail under the Irrigation District Act subsequent to the organization of the irrigation district, the secretary of the board of directors shall cause notice to be published in a newspaper of general circulation in each county in which the irrigation district lies. The notice shall include the date, time, place, and manner of holding the election. The secretary shall also post a general notice of the same in the office of the board, which shall be established and kept at some fixed place to be determined by the board, specifying the polling places, if any, of each precinct of the irrigation district.

(2) Each year the board of directors of an irrigation district shall determine whether to hold the subsequent regular election of the irrigation district by mail. The board of directors may determine to hold any other election by mail under the Irrigation District Act if the decision to hold the election by mail is made at least forty-five days prior to the date set for such election. The secretary of the board of directors shall, at least thirty days prior to the date set for the election, mail to the last-known post office address of each elector a ballot which lists the names of the candidates and gives instructions and the deadlines to return the ballot. The secretary shall publish notice of the election by mail in a newspaper of general circulation in each county in which the irrigation district lies. The notice shall include instructions and the deadlines for requesting a ballot and instructions and the deadlines for casting ballots by mail. The notice shall also include the time and place designated for processing and counting the ballots cast by mail.

(3) Prior to the time for posting the notices, the board of directors shall appoint three residents from each precinct, one clerk and two judges, who shall constitute a board of election for such precinct. If the board of directors fails to appoint a board of election or the members appointed do not attend at the opening of the polls on the morning of election or at the time and place for processing and counting the ballots cast by mail, as the case may be, the electors of the precinct present at that hour may appoint the board. The board of directors must, in its order appointing the board of election, designate the hour and place in the precinct where the election must be held or the time and place for processing and counting the ballots cast by mail, as the case may be.

Source: Laws 1895, c. 70, § 5, p. 274; R.S.1913, § 3461; C.S.1922, § 2861; C.S.1929, § 46-105; R.S.1943, § 46-115; Laws 1951, c. 148, § 2, p. 596; Laws 2015, LB561, § 6.

Cross References

Voting by mail, absentee voters, see sections 32-938 to 32-951.

Voting by mail, special election procedures, see sections 32-952 to 32-959.

46-116 Election officers; powers and duties; hours of election.

(1) One of the judges shall be chairperson of the board of election and may (a) administer all oaths required in the progress of an election under the Irrigation District Act and (b) appoint judges and clerks, if during the progress of the election or processing and counting ballots cast by mail, as the case may be, any judge or clerk ceases to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election or the processing and counting of ballots cast by mail, as the case may be. Before opening the polls or processing and

counting ballots cast by mail, each member of the board of election must take and subscribe to an oath to faithfully perform the duties imposed upon him or her by law. Any elector of the precinct may administer and certify such oath.

(2) For elections other than those conducted by mail, the polls must be opened at 8 a.m. on the morning of the election and be kept open until 6 p.m. of the same day, except that in districts embracing twelve thousand acres or less, the polls may, by direction of the board of directors, be opened at 1 p.m. and be kept open until 5:30 p.m. of the same day.

Source: Laws 1895, c. 70, § 6, p. 274; Laws 1913, c. 22, § 1, p. 94; R.S.1913, § 3462; C.S.1922, § 2862; C.S.1929, § 46-106; R.S. 1943, § 46-116; Laws 2015, LB561, § 7.

46-117 Elections; return and canvass of vote.

(1) Elections under the Irrigation District Act, together with the ballots cast thereat, shall be certified by the boards of election for the precincts to the board of directors of the irrigation district within three days after the election or the deadline for casting ballots by mail.

(2) No lists, tally paper, or certificate returned from any election shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election and canvass the returns. If at the time of meeting the returns from each precinct in the district in which the polls were opened or ballots were mailed have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received the canvass must be postponed from day to day until all the returns have been received or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for and declaring the result thereof.

Source: Laws 1895, c. 70, § 7, p. 275; R.S.1913, § 3463; C.S.1922, § 2863; C.S.1929, § 46-107; R.S.1943, § 46-117; Laws 2015, LB561, § 8.

(d) CONSTRUCTION BY DISTRICT

46-151 Cost of construction; when payable in bonds; issuance of additional bonds; additional levy.

The cost and expense of purchasing and acquiring property and constructing the works and improvements provided for in the Irrigation District Act shall be wholly paid out of the construction fund, or in the bonds of the irrigation district at their par value, after having first advertised the same for sale as provided in section 46-1,100, and having received no bids therefor of ninety-five percent or upwards of their face value. In case such bonds or the money raised by their sale is insufficient for the purposes for which the bonds were issued, additional bonds may be issued, after submission of the question at a general or special election to the electors of the district. In case of the issuance of additional bonds, the lien for taxes for the payment of the interest and principal of such issue shall be a subsequent lien to any prior bond issue. However, the provisions of this section shall not apply where the cost and expense of purchasing and acquiring property and constructing the works and improvements provided for in the Irrigation District Act are covered by contract

between the district and the United States. In lieu of the issuance of additional bonds, the board of directors may provide for the completion of the irrigation system of the district by the levy of an assessment therefor in the same manner in which levy of an assessment is made for the other purposes provided in the Irrigation District Act.

Source: Laws 1895, c. 70, § 24, p. 287; Laws 1899, c. 78, § 2, p. 334; Laws 1913, c. 37, § 1, p. 131; R.S.1913, § 3482; Laws 1915, c. 69, § 8, p. 179; C.S.1922, § 2882; C.S.1929, § 46-127; R.S.1943, § 46-151; Laws 2015, LB561, § 9.

(j) CHANGE OF BOUNDARIES

46-179 Exclusion of lands; objection made; action of board; election required; notice; procedure.

If the assent of the holders of the bonds is filed and entered of record as provided in section 46-178, and if there are objections presented by any person showing cause which have not been withdrawn, then the board of directors may order an election to be held in the irrigation district to determine whether an order shall be made excluding such lands from the district as mentioned in the resolution. The notice of such election shall describe the boundaries of all the lands which it is proposed to exclude, and such notice shall be published for at least two weeks prior to such election in a newspaper of general circulation within the county where the office of the board of directors is situated; and if any portion of such territory to be excluded lies within another county or counties, then such notice shall be so published in a newspaper of general circulation in each of such counties. Such notice shall require the electors to cast ballots which shall contain the words For exclusion, or Against exclusion, or words equivalent thereto. Such election shall otherwise be conducted in accordance with sections 46-115 to 46-118.

Source: Laws 1895, c. 70, § 52, p. 299; R.S.1913, § 3509; C.S.1922, § 2909; C.S.1929, § 46-154; R.S.1943, § 46-179; Laws 2015, LB561, § 10.

Cross References

For election laws, see Chapter 32.

(k) DISCONTINUANCE OF DISTRICT

46-185 Discontinuance of district; petition; special election; notice; procedure.

Whenever a majority of the assessment payers, representing a majority of the number of acres of irrigable land within any irrigation district, petition the board of directors to call a special election for the purpose of submitting to the electors of such irrigation district a proposition to vote on the discontinuance of such irrigation district and a settlement of its bonded and other indebtedness, the board of directors shall call an election, setting forth the object of the same, and cause a notice of such election to be published in some newspaper of general circulation in each of the counties in which the district is located, for a period of thirty days prior to such election, setting forth the time and place for holding such election in each of the voting precincts in the district, and shall also cause a written or printed notice of such election to be posted in some

conspicuous place in each of the voting precincts. The board of directors shall provide ballots to be used at such election on which shall be written or printed the words For discontinuance Yes, and For discontinuance No. The election shall otherwise be conducted in accordance with sections 46-115 to 46-118.

Source: Laws 1897, c. 91, §§ 1, 2, p. 372; Laws 1903, c. 123, § 1, p. 625; R.S.1913, § 3521; C.S.1922, § 2921; C.S.1929, § 46-166; R.S. 1943, § 46-185; Laws 2015, LB561, § 11.

(r) CONTRACTS FOR WATER SUPPLY

46-1,145 Contract for water supply; election required, when; notice; procedure; effect of affirmative vote.

If such contract provides for payments to be made extending for a period of more than one year from the date of making the contract, the board of directors of such irrigation district shall submit the contract to the electors of the district at any general election or at a special election called therefor for the approval or disapproval of the contract. The ballots at the election shall have printed thereon For approval of contract for water supply, and Against approval of contract for water supply. The notice of the election need not give the entire contract but shall be sufficient if it states in a general way the substance of the proposed contract. The election shall otherwise be conducted in accordance with sections 46-115 to 46-118. If a majority of the electors that vote on the proposition vote for approval of the contract, the board of directors shall enter into the contract and shall thereafter, at the time the other taxes of the district are levied, levy a tax on the taxable property of the district sufficient to pay the amount due and to become due on the contract before the next annual levy in the district.

Source: Laws 1915, c. 205, § 3, p. 442; C.S.1922, § 2946; C.S.1929, § 46-203; R.S.1943, § 46-1,145; Laws 2015, LB561, § 12.

(u) MERGER OF DISTRICTS

46-1,160 Merger of districts; election; ballots; canvass; board of directors.

The board of directors of the irrigation districts to be merged shall provide ballots to be used at such election. The return of the election, together with the ballots cast thereat, shall be certified by the boards of election of such districts to the persons who will serve as the board of directors of the merged district if the merger is approved, within three days after the election or within three days after the deadline to submit ballots by mail, as the case may be, which board shall, on or before the third day after the election, canvass such returns and declare the result of such election, which result shall be at once recorded by the secretary of the board of directors in the records of the district boards and certified to the county clerk. The election and the return thereof shall otherwise be conducted in accordance with sections 46-115 to 46-118.

Source: Laws 1972, LB 1509, § 8; Laws 2015, LB561, § 13.

ARTICLE 2

GENERAL PROVISIONS

(f) APPLICATION FOR WATER

Section

- 46-236. Application for water power; lease from state required; fee; renewal; cancellation; grounds.
- 46-240.01. Supplemental additional appropriations; agricultural appropriators; application.
- 46-241. Application for water; storage reservoirs; facility for underground water storage; eminent domain; procedure; duties and liabilities of owner.

(g) IRRIGATION WORKS; CONSTRUCTION, OPERATION, AND REGULATION

- 46-251. Irrigation works; use of state lands and highways; grant; right-of-way; condemnation.

(l) INTRABASIN TRANSFERS

- 46-290. Appropriation; application to transfer or change; contents; approval.
- 46-294. Applications; approval; requirements; conditions; burden of proof.

(m) UNDERGROUND WATER STORAGE

- 46-297. Permit to appropriate water; modification to include underground water storage; procedure.

(p) WATER POLICY TASK FORCE

- 46-2,131. Repealed. Laws 2011, LB 2, § 8.
- 46-2,132. Repealed. Laws 2011, LB 2, § 8.
- 46-2,133. Repealed. Laws 2011, LB 2, § 8.
- 46-2,134. Repealed. Laws 2011, LB 2, § 8.
- 46-2,135. Repealed. Laws 2011, LB 2, § 8.
- 46-2,136. Repealed. Laws 2011, LB 2, § 8.
- 46-2,137. Repealed. Laws 2011, LB 2, § 8.
- 46-2,138. Repealed. Laws 2011, LB 2, § 8.

(q) STORM WATER MANAGEMENT PLAN PROGRAM

- 46-2,139. Storm Water Management Plan Program; created; assistance to cities and counties; grants; Department of Environmental Quality; duties.

(r) REPUBLICAN RIVER BASIN WATER SUSTAINABILITY TASK FORCE

- 46-2,140. Repealed. Laws 2015, LB 9, § 1.
- 46-2,141. Repealed. Laws 2015, LB 9, § 1.

(f) APPLICATION FOR WATER

46-236 Application for water power; lease from state required; fee; renewal; cancellation; grounds.

An application for appropriation of water for water power shall meet the requirements of section 46-234 and subsection (1) of section 46-235 to be approved. Within six months after the approval of an application for water power and before placing water to any beneficial use, the applicant shall enter into a contract with the State of Nebraska, through the department, for leasing the use of all water so appropriated. Such lease shall be upon forms prepared by the department, and the time of such lease shall not run for a greater period than fifty years; and for the use of water for power purposes the applicant shall pay into the state treasury on or before January 1 each year fifteen dollars for each one hundred horsepower for all water so appropriated. Upon application of the lessee or its assigns, the department shall renew the lease so as to continue it and the water appropriation in full force and effect for an additional period of fifty years.

Upon the failure of the applicant to comply with any of the provisions of such lease and the failure to pay any of such fees, the department shall notify the lessee that the required fees have not been paid to the department or that the lessee is not otherwise in compliance with the provisions of the lease. If the lessee has not come into compliance with all provisions of the lease or has not paid to the department all required fees within fifteen calendar days after the date of such notice, the department shall issue an order denying the applicant the right to divert or otherwise use the water appropriation for power production. The department shall rescind the order denying use of the water appropriation at such time as the lessee has come into compliance with all provisions of the lease and has paid all required fees to the department. If after forty-five calendar days from the date of issuance of the order the lessee is not in compliance with all provisions of the lease or required fees have not been paid to the department, such lease and water appropriation shall be canceled by the department.

Source: Laws 1921, c. 291, § 1, p. 942; C.S.1922, § 8437; C.S.1929, § 81-6318; R.S.1943, § 46-236; Laws 1972, LB 1306, § 1; Laws 1987, LB 140, § 7; Laws 2000, LB 900, § 111; Laws 2011, LB27, § 1.

46-240.01 Supplemental additional appropriations; agricultural appropriators; application.

All appropriators of water for agricultural purposes of less than the statutory limit of direct flow from the public waters of this state within the drainage basin of the stream from which such waters originate shall be entitled to such additional appropriation or appropriations from the direct flow of such stream, within the statutory limits provided by law, as may be necessary and required for the production of crops in the practice of good husbandry. Applications for such supplemental additional appropriations from the direct flow, upon the approval or granting thereof, shall have priority within the drainage basin as of the date such applications are filed in the office of the department.

Source: Laws 1953, c. 160, § 1, p. 503; Laws 2000, LB 900, § 114; Laws 2011, LB31, § 1.

46-241 Application for water; storage reservoirs; facility for underground water storage; eminent domain; procedure; duties and liabilities of owner.

(1) Every person intending to construct and operate a storage reservoir for irrigation or any other beneficial purpose or intending to construct and operate a facility for intentional underground water storage and recovery shall, except as provided in subsections (2) and (3) of this section and section 46-243, make an application to the department upon the prescribed form and provide such plans, drawings, and specifications as are necessary to comply with the Safety of Dams and Reservoirs Act. Such application shall be filed and proceedings had thereunder in the same manner and under the same rules and regulations as other applications. Upon the approval of such application under this section and any approval required by the act, the applicant shall have the right to construct and impound in such reservoir, or store in and recover from such underground water storage facility, all water not otherwise appropriated and any appropriated water not needed for immediate use, to construct and operate necessary ditches for the purpose of conducting water to such storage reservoir

or facility, and to condemn land for such reservoir, ditches, or other facility. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

(2) Any person intending to construct an on-channel reservoir with a water storage impounding capacity of less than fifteen acre-feet measured below the crest of the lowest open outlet or overflow shall be exempt from subsection (1) of this section as long as there will be (a) no diversion or withdrawal of water from the reservoir for any purpose other than for watering range livestock and (b) no release from the reservoir to provide water for a downstream diversion or withdrawal for any purpose other than for watering range livestock. This subsection does not exempt any person from the requirements of the Safety of Dams and Reservoirs Act or section 54-2425.

(3) Any person intending to construct a reservoir, holding pond, or lagoon for the sole purpose of holding, managing, or disposing of animal or human waste shall be exempt from subsection (1) of this section. This subsection does not exempt any person from any requirements of the Safety of Dams and Reservoirs Act or section 46-233 or 54-2425.

(4) Every person intending to modify or rehabilitate an existing storage reservoir so that its impounding capacity is to be increased shall comply with subsection (1) of this section.

(5) The owner of a storage reservoir or facility shall be liable for all damages arising from leakage or overflow of the water therefrom or from the breaking of the embankment of such reservoir. The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required downstream in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass through the outlets of such reservoir or facility, whether presently existing or hereafter constructed, a portion of the measured inflows to furnish water for livestock in such amounts and at such times as directed by the department to meet the requirements for such purposes as determined by the department, except that a reservoir or facility owner shall not be required to release water for this purpose which has been legally stored. Any dam shall be constructed in accordance with the Safety of Dams and Reservoirs Act, and the outlet works shall be installed so that water may be released in compliance with this section. The requirement for outlet works may be waived by the department upon a showing of good cause. Whenever any person diverts water from a public stream and returns it into the same stream, he or she may take out the same amount of water, less a reasonable deduction for losses in transit, to be determined by the department, if no prior appropriator for beneficial use is prejudiced by such diversion.

(6) An application for storage and recovery of water intentionally stored underground may be made only by an appropriator of record who shows, by documentary evidence, sufficient interest in the underground water storage facility to entitle the applicant to the water requested.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 3, § 17, p. 852; C.S.1922, § 8467; C.S.1929, § 46-617; R.S.1943, § 46-241; Laws 1951, c. 101, § 91, p. 487; Laws 1955, c. 183, § 2, p. 515; Laws 1971, LB 823, § 1; Laws 1973, LB 186, § 8; Laws 1983, LB 198, § 9; Laws

1985, LB 103, § 2; Laws 1985, LB 488, § 5; Laws 1995, LB 309, § 1; Laws 2000, LB 900, § 115; Laws 2003, LB 619, § 4; Laws 2004, LB 916, § 2; Laws 2004, LB 962, § 14; Laws 2005, LB 335, § 74; Laws 2014, LB1098, § 12.

Cross References

Safety of Dams and Reservoirs Act, see section 46-1601.

(g) IRRIGATION WORKS; CONSTRUCTION,
OPERATION, AND REGULATION**46-251 Irrigation works; use of state lands and highways; grant; right-of-way; condemnation.**

All persons desirous of constructing any of the works provided for in sections 46-244 to 46-250 shall have the right to occupy state lands and obtain right-of-way over and across any highway in this state for such purpose without compensation, except public school lands. All bridges or crossings over such ditches, laterals, and canals shall be constructed under the supervision of the Department of Transportation, if on a state highway, and under the supervision of the county board or governing body of a municipality, if on a highway under the jurisdiction of such board or governing body. All such persons may obtain a right-of-way not to exceed sixteen feet in width, for a like purpose along, parallel to, and upon one side of any highway by condemnation proceedings where the same does not interfere with the proper drainage of such highway. In such cases the abutting landowner and the county may grant such right-of-way, or in case of their refusal notice shall be served upon them and proceedings had as in other cases. Not more than one such ditch or lateral shall be permitted along the side of the same highway.

Source: Laws 1919, c. 190, tit. VII, art. V, div. 3, § 7, p. 848; C.S.1922, § 8457; C.S.1929, § 46-607; R.S.1943, § 46-251; Laws 1961, c. 227, § 2, p. 672; Laws 2017, LB339, § 175.

Cross References

Bridge over drainage or irrigation ditch, construction, maintenance, and payment of costs, see section 39-805.

(l) INTRABASIN TRANSFERS

46-290 Appropriation; application to transfer or change; contents; approval.

(1)(a) Except as provided in this section and sections 46-2,120 to 46-2,130, any person having a permit to appropriate water for beneficial purposes issued pursuant to sections 46-233 to 46-235, 46-240.01, 46-241, 46-242, or 46-637 and who desires (i) to transfer the use of such appropriation to a location other than the location specified in the permit, (ii) to change that appropriation to a different type of appropriation as provided in subsection (3) of this section, or (iii) to change the purpose for which the water is to be used under a natural-flow, storage, or storage-use appropriation to a purpose not at that time permitted under the appropriation shall apply for approval of such transfer or change to the Department of Natural Resources.

(b) The application for such approval shall contain (i) the number assigned to such appropriation by the department, (ii) the name and address of the present holder of the appropriation, (iii) if applicable, the name and address of the person or entity to whom the appropriation would be transferred or who will

be the user of record after a change in the location of use, type of appropriation, or purpose of use under the appropriation, (iv) the legal description of the land to which the appropriation is now appurtenant, (v) the name and address of each holder of a mortgage, trust deed, or other equivalent consensual security interest against the tract or tracts of land to which the appropriation is now appurtenant, (vi) if applicable, the legal description of the land to which the appropriation is proposed to be transferred, (vii) if a transfer is proposed, whether other sources of water are available at the original location of use and whether any provisions have been made to prevent either use of a new source of water at the original location or increased use of water from any existing source at that location, (viii) if applicable, the legal descriptions of the beginning and end of the stream reach to which the appropriation is proposed to be transferred for the purpose of augmenting the flows in that stream reach, (ix) if a proposed transfer is for the purpose of increasing the quantity of water available for use pursuant to another appropriation, the number assigned to such other appropriation by the department, (x) the purpose of the current use, (xi) if a change in purpose of use is proposed, the proposed purpose of use, (xii) if a change in the type of appropriation is proposed, the type of appropriation to which a change is desired, (xiii) if a proposed transfer or change is to be temporary in nature, the duration of the proposed transfer or change, and (xiv) such other information as the department by rule and regulation requires.

(2) If a proposed transfer or change is to be temporary in nature, a copy of the proposed agreement between the current appropriator and the person who is to be responsible for use of water under the appropriation while the transfer or change is in effect shall be submitted at the same time as the application.

(3) Regardless of whether a transfer or a change in the purpose of use is involved, the following changes in type of appropriation, if found by the Director of Natural Resources to be consistent with section 46-294, may be approved subject to the following:

(a) A natural-flow appropriation for direct out-of-stream use may be changed to a natural-flow appropriation for aboveground reservoir storage or for intentional underground water storage;

(b) A natural-flow appropriation for intentional underground water storage may be changed to a natural-flow appropriation for direct out-of-stream use or for aboveground reservoir storage;

(c) A natural-flow appropriation for direct out-of-stream use, for aboveground reservoir storage, or for intentional underground water storage may be changed to an instream appropriation subject to sections 46-2,107 to 46-2,119 if the director determines that the resulting instream appropriation would be consistent with subdivisions (2), (3), and (4) of section 46-2,115;

(d) A natural-flow appropriation for direct out-of-stream use, for aboveground reservoir storage, or for intentional underground water storage may be changed to an appropriation for induced ground water recharge if the director determines that the resulting appropriation for induced ground water recharge would be consistent with subdivisions (2)(a)(i) and (ii) of section 46-235;

(e) An appropriation for the manufacturing of hydropower at a facility located on a natural stream channel may be permanently changed in full to an instream basin-management appropriation to be held jointly by the Game and Parks Commission and any natural resources district or combination of natural resources districts. The beneficial use of such change is to maintain the

streamflow for fish, wildlife, and recreation that was available from the manufacturing of hydropower prior to the change. Such changed appropriation may also be utilized by the owners of the appropriation to assist in the implementation of an approved integrated management plan or plans developed pursuant to sections 46-714 to 46-718 for each natural resources district within the river basin. Any such change under this section shall be subject to review under sections 46-229 to 46-229.06 to ensure that the beneficial uses of the change of use are still being achieved; and

(f) The incidental underground water storage portion, whether or not previously quantified, of a natural-flow or storage-use appropriation may be separated from the direct-use portion of the appropriation and may be changed to a natural-flow or storage-use appropriation for intentional underground water storage at the same location if the historic consumptive use of the direct-use portion of the appropriation is transferred to another location or is terminated, but such a separation and change may be approved only if, after the separation and change, (i) the total permissible diversion under the appropriation will not increase, (ii) the projected consequences of the separation and change are consistent with the provisions of any integrated management plan adopted in accordance with section 46-718 or 46-719 for the geographic area involved, and (iii) if the location of the proposed intentional underground water storage is in a river basin, subbasin, or reach designated as overappropriated in accordance with section 46-713, the integrated management plan for that river basin, subbasin, or reach has gone into effect, and that plan requires that the amount of the intentionally stored water that is consumed after the change will be no greater than the amount of the incidentally stored water that was consumed prior to the change. Approval of a separation and change pursuant to this subdivision (f) shall not exempt any consumptive use associated with the incidental recharge right from any reduction in water use required by an integrated management plan for a river basin, subbasin, or reach designated as overappropriated in accordance with section 46-713.

Whenever any change in type of appropriation is approved pursuant to this subsection and as long as that change remains in effect, the appropriation shall be subject to the statutes, rules, and regulations that apply to the type of appropriation to which the change has been made.

(4) The Legislature finds that induced ground water recharge appropriations issued pursuant to sections 46-233 and 46-235 and instream appropriations issued pursuant to section 46-2,115 are specific to the location identified in the appropriation. Neither type of appropriation shall be transferred to a different location, changed to a different type of appropriation, or changed to permit a different purpose of use.

(5) In addition to any other purposes for which transfers and changes may be approved, such transfers and changes may be approved if the purpose is (a) to maintain or augment the flow in a specific stream reach for any instream use that the department has determined, through rules and regulations, to be a beneficial use or (b) to increase the frequency that a diversion rate or rate of flow specified in another valid appropriation is achieved.

For any transfer or change approved pursuant to subdivision (a) of this subsection, the department shall be provided with a report at least every five years while such transfer or change is in effect. The purpose of such report shall be to indicate whether the beneficial instream use for which the flow is

maintained or augmented continues to exist. If the report indicates that it does not or if no report is filed within sixty days after the department's notice to the appropriator that the deadline for filing the report has passed, the department may cancel its approval of the transfer or change and such appropriation shall revert to the same location of use, type of appropriation, and purpose of use as prior to such approval.

(6) A quantified or unquantified appropriation for incidental underground water storage may be transferred to a new location along with the direct-use appropriation with which it is recognized if the director finds such transfer to be consistent with section 46-294 and determines that the geologic and other relevant conditions at the new location are such that incidental underground water storage will occur at the new location. The director may request such information from the applicant as is needed to make such determination and may modify any such quantified appropriation for incidental underground water storage, if necessary, to reflect the geologic and other conditions at the new location.

(7) Unless an incidental underground water storage appropriation is changed as authorized by subdivision (3)(f) of this section or is transferred as authorized by subsection (6) of this section or subsection (1) of section 46-291, such appropriation shall be canceled or modified, as appropriate, by the director to reflect any reduction in water that will be stored underground as the result of a transfer or change of the direct-use appropriation with which the incidental underground water storage was recognized prior to the transfer or change.

(8) Any appropriation for manufacturing of hydropower changed under subdivision (3)(e) of this section shall maintain the priority date and preference category of the original manufacturing appropriation and shall be subject to condemnation and subordination pursuant to sections 70-668 and 70-669. Any person holding a subordination agreement that was established prior to such change of appropriation shall be entitled to enter into a new subordination agreement for terms consistent with the original subordination agreement at no additional cost. Any person having obtained a condemnation award that was established prior to such change of appropriation shall be entitled to the same benefits created by such award, and any obligations created by such award shall become the obligations of the new owner of the appropriation changed under this section.

Source: Laws 1983, LB 21, § 2; Laws 1995, LB 99, § 17; Laws 2000, LB 900, § 131; Laws 2004, LB 962, § 16; Laws 2006, LB 1226, § 10; Laws 2009, LB477, § 1; Laws 2016, LB1038, § 12.

46-294 Applications; approval; requirements; conditions; burden of proof.

(1) Except for applications approved in accordance with subsection (1) of section 46-291, the Director of Natural Resources shall approve an application filed pursuant to section 46-290 only if the application and the proposed transfer or change meet the following requirements:

(a) The application is complete and all other information requested pursuant to section 46-293 has been provided;

(b) The proposed use of water after the transfer or change will be a beneficial use of water;

(c)(i) Any requested transfer in the location of use is within the same river basin as defined in section 46-288 or (ii) the river basin from which the appropriation is to be transferred is tributary to the river basin to which the appropriation is to be transferred;

(d) Except as otherwise provided in subsection (4) of this section, the proposed transfer or change, alone or when combined with any new or increased use of any other source of water at the original location or within the same irrigation district, reclamation district, public power and irrigation district, or mutual irrigation or canal company for the original or other purposes, will not diminish the supply of water available for or otherwise adversely affect any other water appropriator and will not significantly adversely affect any riparian water user who files an objection in writing pursuant to section 46-291;

(e) The quantity of water that is transferred for diversion or other use at the new location will not exceed the historic consumptive use under the appropriation or portion thereof being transferred, except that this subdivision does not apply to (i) a transfer in the location of use if both the current use and the proposed use are for irrigation, the number of acres to be irrigated will not increase after the transfer, and the location of the diversion from the stream will not change or (ii) a transfer or change in the purpose of use of a surface water irrigation appropriation as provided for in subsection (3), (5), or (6) of section 46-290 if the transfer or change in purpose will not diminish the supply of water available or otherwise adversely affect any other water appropriator, adversely affect Nebraska's ability to meet its obligations under a multistate agreement, or result in administration of the prior appropriation system by the Department of Natural Resources, which would not have otherwise occurred;

(f) The appropriation, prior to the transfer or change, is not subject to termination or cancellation pursuant to sections 46-229 to 46-229.04;

(g) If a proposed transfer or change is of an appropriation that has been used for irrigation and is in the name of an irrigation district, reclamation district, public power and irrigation district, or mutual irrigation or canal company or is dependent upon any such district's or company's facilities for water delivery, such district or company has approved the transfer or change;

(h) If the proposed transfer or change is of a storage-use appropriation and if the owner of that appropriation is different from the owner of the associated storage appropriation, the owner of the storage appropriation has approved the transfer or change;

(i) If the proposed transfer or change is to be permanent, either (i) the purpose for which the water is to be used before the transfer or change is in the same preference category established by section 46-204 as the purpose for which the water is to be used after the transfer or change or (ii) the purpose for which the water is to be used before the transfer or change and the purpose for which the water is to be used after the transfer or change are both purposes for which no preferences are established by section 46-204;

(j) If the proposed transfer or change is to be temporary, it will be for a duration of no less than one year and, except as provided in section 46-294.02, no more than thirty years;

(k) The transfer or change will not be inconsistent with any applicable state or federal law and will not jeopardize the state's compliance with any applica-

ble interstate water compact or decree or cause difficulty in fulfilling the provisions of any other formal state contract or agreement; and

(1) The proposed transfer or change is in the public interest. The director's considerations relative to the public interest shall include, but not be limited to, (i) the economic, social, and environmental impacts of the proposed transfer or change and (ii) whether and under what conditions other sources of water are available for the uses to be made of the appropriation after the proposed transfer or change. The Department of Natural Resources shall adopt and promulgate rules and regulations to govern the director's determination of whether a proposed transfer or change is in the public interest.

(2) The applicant has the burden of proving that the proposed transfer or change will comply with subdivisions (1)(a) through (l) of this section, except that (a) the burden is on a riparian user to demonstrate his or her riparian status and to demonstrate a significant adverse effect on his or her use in order to prevent approval of an application and (b) if both the current use and the proposed use after a transfer are for irrigation, the number of acres to be irrigated will not increase after the transfer, and the location of the diversion from the stream will not change, there is a rebuttable presumption that the transfer will be consistent with subdivision (1)(d) of this section.

(3) In approving an application, the director may impose any reasonable conditions deemed necessary to protect the public interest, to ensure consistency with any of the other criteria in subsection (1) of this section, or to provide the department with information needed to properly and efficiently administer the appropriation while the transfer or change remains in effect. If necessary to prevent diminution of supply for any other appropriator, the conditions imposed by the director shall require that historic return flows be maintained or replaced in quantity, timing, and location. After approval of any such transfer or change, the appropriation shall be subject to all water use restrictions and requirements in effect at any new location of use and, if applicable, at any new diversion location. An appropriation for which a transfer or change has been approved shall retain the same priority date as that of the original appropriation. If an approved transfer or change is temporary, the location of use, purpose of use, or type of appropriation shall revert to the location of use, purpose of use, or type of appropriation prior to the transfer or change.

(4) In approving an application for a transfer, the director may also authorize the overlying of water appropriations on the same lands, except that if any such overlying of appropriations would result in either the authorized diversion rate or the authorized aggregate annual quantity that could be diverted to be greater than is otherwise permitted by section 46-231, the director shall limit the total diversion rate or aggregate annual quantity for the appropriations overlain to the rate or quantity that he or she determines is necessary, in the exercise of good husbandry, for the production of crops on the land involved. The director may also authorize a greater number of acres to be irrigated if the amount and rate of water approved under the original appropriation is not increased by the change of location. An increase in the number of acres to be irrigated shall be approved only if (a) such an increase will not diminish the supply of water available to or otherwise adversely affect another water appropriator or (b) the transfer would not adversely affect the water supply for any river basin, subbasin, or reach that has been designated as overappropriated pursuant to section 46-713 or determined to be fully appropriated pursuant to section 46-714 and (i) the number of acres authorized under the appropriation when

originally approved has not been increased previously, (ii) the increase in the number of acres irrigated will not exceed five percent of the number of acres being irrigated under the permit before the proposed transfer or a total of ten acres, whichever acreage is less, and (iii) all the use will be either on the quarter section to which the appropriation was appurtenant before the transfer or on an adjacent quarter section.

Source: Laws 1983, LB 21, § 6; Laws 1984, LB 818, § 2; Laws 1993, LB 789, § 4; Laws 2000, LB 900, § 135; Laws 2004, LB 962, § 20; Laws 2012, LB526, § 1.

(m) UNDERGROUND WATER STORAGE

46-297 Permit to appropriate water; modification to include underground water storage; procedure.

Any person who has an approved, unperfected appropriation pursuant to Chapter 46, article 2, may apply to the department for a modification of such permit to include intentional underground water storage associated with the appropriation. The application shall be made on a form prescribed and furnished by the department without cost to the applicant. Upon receipt of such an application, the department shall proceed in accordance with rules and regulations adopted and promulgated by the department, subject to section 46-226.02.

Source: Laws 1983, LB 198, § 11; Laws 1997, LB 752, § 120; Laws 2013, LB102, § 1.

(p) WATER POLICY TASK FORCE

46-2,131 Repealed. Laws 2011, LB 2, § 8.

46-2,132 Repealed. Laws 2011, LB 2, § 8.

46-2,133 Repealed. Laws 2011, LB 2, § 8.

46-2,134 Repealed. Laws 2011, LB 2, § 8.

46-2,135 Repealed. Laws 2011, LB 2, § 8.

46-2,136 Repealed. Laws 2011, LB 2, § 8.

46-2,137 Repealed. Laws 2011, LB 2, § 8.

46-2,138 Repealed. Laws 2011, LB 2, § 8.

(q) STORM WATER MANAGEMENT PLAN PROGRAM

46-2,139 Storm Water Management Plan Program; created; assistance to cities and counties; grants; Department of Environmental Quality; duties.

The Storm Water Management Plan Program is created. The purpose of the program is to facilitate and fund the duties of cities and counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as such act existed on January 1, 2006, regarding storm water runoff under the National Pollutant Discharge Elimination System requirements. The Storm Water Management Plan Program shall function as a grant program administered by the Department of Environmental Quality, using funds appropriated for the program. The depart-

ment shall deduct from funds appropriated amounts sufficient to reimburse itself for its costs of administration of the grant program. Any city or county when applying for a grant under the program shall have a storm water management plan approved by the department which meets the requirements of the National Pollutant Discharge Elimination System. Grant applications shall be made to the department on forms prescribed by the department. Grant funds shall be distributed by the department as follows:

(1) Not less than eighty percent of the funds available for grants under this section shall be provided to cities and counties in urbanized areas, as identified in 77 Federal Register 18652-18669, that apply for grants and meet the requirements of this section. Grants made pursuant to this subdivision shall be distributed proportionately based on the population of applicants within such category, as determined by the most recent federal census update or recount certified by the United States Department of Commerce, Bureau of the Census. For the purpose of distributing grant funds to a county pursuant to this subdivision, the proportion shall be based on the county population, less the population of city applicants within that county. Any funds available for grants under this subdivision and not awarded by the end of a calendar year shall be available for grants in the following year; and

(2) Not more than twenty percent of the funds available for grants under this section shall be provided to cities and counties outside of urbanized areas, as identified in 77 Federal Register 18652-18669, with populations greater than ten thousand inhabitants as determined by the most recent federal census update or recount certified by the United States Department of Commerce, Bureau of the Census, that apply for grants and meet the requirements of this section. Grants under this subdivision shall be distributed proportionately based on the population of applicants within this category as determined by the most recent federal census update or recount certified by the United States Department of Commerce, Bureau of the Census. For the purpose of distributing grant funds to a county pursuant to this subdivision, the proportion shall be based on the county population, less the population of city applicants within that county. Any funds available for grants pursuant to this subdivision which have not been awarded at the end of each calendar year shall be available for awarding grants pursuant to subdivision (1) of this section.

Any city or county receiving a grant under subdivision (1) or (2) of this section shall contribute matching funds equal to twenty percent of the grant amount.

Source: Laws 2006, LB 1226, § 6; Laws 2007, LB530, § 1; Laws 2014, LB683, § 1.

(r) REPUBLICAN RIVER BASIN WATER SUSTAINABILITY TASK FORCE

46-2,140 Repealed. Laws 2015, LB 9, § 1.

46-2,141 Repealed. Laws 2015, LB 9, § 1.

ARTICLE 5 RECLAMATION DISTRICTS

Section
46-544. Special assessments; levy; limitation.

46-544 Special assessments; levy; limitation.

(1) If the board of a reclamation district determines in any year that there are certain lands within the district, not included within Classes B, C, and D, which receive special direct benefits from recharging of the ground water reservoirs by water originating from district works, the board shall in such year fix an amount to be levied upon the taxable value of the taxable property as a special assessment which in the opinion of the board will compensate the district for the special direct benefits accruing to such property by reason of recharged ground water reservoirs under such land by water originating from the district works. Such amount shall in no case exceed, together with all other amounts levied made under Class A on such land, the sum of fourteen cents on each one hundred dollars of the taxable value of the land. Such owner of lands specially assessed for special direct benefits shall have notice, hearing, and the right of appeal and shall be governed by section 46-554.

(2) The authority provided in this section may not be used if the district has obtained approval to levy fees or assessments pursuant to section 46-2,101.

Source: Laws 1947, c. 173, § 15(2), p. 540; Laws 1969, c. 145, § 38, p. 696; Laws 1979, LB 187, § 173; Laws 1983, LB 198, § 21; Laws 1992, LB 1063, § 40; Laws 1992, Second Spec. Sess., LB 1, § 40; Laws 2015, LB361, § 57.

Cross References

Budget Act, Nebraska, section included, see section 13-501.

ARTICLE 6 GROUND WATER

(b) GROUND WATER CONSERVATION DISTRICTS

Section

46-633. Repealed. Laws 2011, LB 2, § 8.

46-634.01. Repealed. Laws 2011, LB 2, § 8.

(c) PUMPING FOR IRRIGATION PURPOSES

46-637. Pumping for irrigation purposes; permit; application; approval by Director of Natural Resources.

(g) INDUSTRIAL GROUND WATER REGULATORY ACT

46-683.01. Permit; application to amend; procedures; limitation.

(i) REPUBLICAN RIVER BASIN

46-692. Repealed. Laws 2011, LB 1, § 1.

(b) GROUND WATER CONSERVATION DISTRICTS

46-633 Repealed. Laws 2011, LB 2, § 8.

46-634.01 Repealed. Laws 2011, LB 2, § 8.

(c) PUMPING FOR IRRIGATION PURPOSES

46-637 Pumping for irrigation purposes; permit; application; approval by Director of Natural Resources.

The use of water described in section 46-636 may only be made after securing a permit from the Department of Natural Resources for such use. In approving

or disapproving applications for such permits, the Director of Natural Resources shall take into account the effect that such pumping may have on the amount of water in the stream and its ability to meet the requirements of appropriators from the stream. This section does not apply to (1) water wells located within fifty feet of the bank of a channel of any natural stream which were in existence on July 1, 2000, and (2) replacement water wells as defined in section 46-602 that are located within fifty feet of the banks of a channel of a stream if the water wells being replaced were originally constructed prior to July 1, 2000, and were located within fifty feet of the bank of a channel of any natural stream.

Source: Laws 1963, c. 275, § 2, p. 828; Laws 1993, LB 131, § 17; Laws 1997, LB 30, § 3; Laws 1997, LB 752, § 121; Laws 2000, LB 900, § 176; Laws 2001, LB 667, § 8; Laws 2013, LB102, § 2.

Cross References

Exemption for reusing ground water from reuse pit, see section 46-287.
For additional definitions, see section 46-706.

(g) INDUSTRIAL GROUND WATER REGULATORY ACT

46-683.01 Permit; application to amend; procedures; limitation.

If during construction or operation a permit holder determines (1) that an additional amount of water is or will be required for the proposed use set forth in a permit issued pursuant to section 46-683 or (2) that there is a need to amend any condition set forth in the permit, the permit holder may file an application to amend the permit. Following a hearing conducted in the manner prescribed by section 46-680, the director shall issue a written order containing specific findings of fact either granting or denying the proposed amendment in accordance with the public interest considerations enumerated in section 46-683. An application to amend a permit shall not be approved if the amendment would increase the daily peak withdrawal or the annual volume by more than twenty-five percent from the amounts approved in the original permit, except for an amendment to increase the maximum daily volumetric flow rate or annual volume to levels authorized under a permit issued by the Department of Environmental Quality pursuant to section 81-1504 and subsection (9) of section 81-1505.

Source: Laws 1986, LB 309, § 3; Laws 2012, LB498, § 1.

(i) REPUBLICAN RIVER BASIN

46-692 Repealed. Laws 2011, LB 1, § 1.

ARTICLE 7

NEBRASKA GROUND WATER MANAGEMENT AND PROTECTION ACT

Section

- 46-701. Act, how cited.
- 46-707. Natural resources district; powers; enumerated; fee.
- 46-708. Action to control or prevent runoff of water; natural resources district; rules and regulations; power to issue cease and desist orders; notice; hearing.
- 46-715. River basin, subbasin, or reach; integrated management plan; considerations; contents; amendment; technical analysis; forecast of water available from streamflow.

Section

- 46-753. Water Resources Trust Fund; created; use; investment; matching funds required; when.
- 46-755. Basin-wide plan; development and adoption; extension; stated goals and objectives; plan contents; department and natural resources districts; duties; public meeting; report; public hearing.
- 46-756. Ground water augmentation project; public hearing; notice.

46-701 Act, how cited.

Sections 46-701 to 46-756 shall be known and may be cited as the Nebraska Ground Water Management and Protection Act.

Source: Laws 1975, LB 577, § 24; Laws 1981, LB 146, § 12; Laws 1982, LB 375, § 22; Laws 1984, LB 1071, § 15; Laws 1986, LB 894, § 31; Laws 1991, LB 51, § 8; Laws 1994, LB 480, § 27; R.S.Supp.,1994, § 46-674; Laws 1996, LB 108, § 7; Laws 2003, LB 619, § 9; R.S.Supp.,2003, § 46-656.01; Laws 2004, LB 962, § 41; Laws 2006, LB 1226, § 19; Laws 2009, LB477, § 3; Laws 2014, LB1098, § 13.

46-707 Natural resources district; powers; enumerated; fee.

(1) Regardless of whether or not any portion of a district has been designated as a management area, in order to administer and enforce the Nebraska Ground Water Management and Protection Act and to effectuate the policy of the state to conserve ground water resources, a district may:

(a) Adopt and promulgate rules and regulations necessary to discharge the administrative duties assigned in the act;

(b) Require such reports from ground water users as may be necessary;

(c) Require the reporting of water uses and irrigated acres by landowners and others with control over the water uses and irrigated acres for the purpose of certification by the district;

(d) Require meters to be placed on any water wells for the purpose of acquiring water use data;

(e) Require decommissioning of water wells that are not properly classified as active status water wells as defined in section 46-1204.02 or inactive status water wells as defined in section 46-1207.02;

(f) Conduct investigations and cooperate or contract with agencies of the United States, agencies or political subdivisions of this state, public or private corporations, or any association or individual on any matter relevant to the administration of the act;

(g) Report to and consult with the Department of Environmental Quality on all matters concerning the entry of contamination or contaminating materials into ground water supplies; and

(h) Issue cease and desist orders, following three days' notice to the person affected stating the contemplated action and in general the grounds for the action and following reasonable opportunity to be heard, to enforce any of the provisions of the act or of orders or permits issued pursuant to the act, to initiate suits to enforce the provisions of orders issued pursuant to the act, and to restrain the construction of illegal water wells or the withdrawal or use of water from illegal water wells.

Before any rule or regulation is adopted pursuant to this subsection, a public hearing shall be held within the district. Notice of the hearing shall be given as provided in section 46-743.

(2) In addition to the powers enumerated in subsection (1) of this section, a district may impose an immediate temporary stay for a period of one hundred eighty days on the construction of any new water well and on any increase in the number of acres historically irrigated, without prior notice or hearing, upon adoption of a resolution by the board finding that such temporary immediate stay is necessary. The district shall hold at least one public hearing on the matter within the district during such one hundred eighty days, with the notice of the hearing given as provided in section 46-743, prior to making a determination as to imposing a permanent stay or conditions in accordance with subsections (1) and (6) of section 46-739. Within forty-five days after a hearing pursuant to this subsection, the district shall decide whether to exempt from the immediate temporary stay the construction of water wells for which permits were issued prior to the date of the resolution commencing the stay but for which construction had not begun prior to such date. If construction of such water wells is allowed, all permits that were valid when the stay went into effect shall be extended by a time period equal to the length of the stay and such water wells shall otherwise be completed in accordance with section 46-738. Water wells listed in subsection (3) of section 46-714 and water wells of public water suppliers are exempt from this subsection.

(3) In addition to the powers enumerated in subsections (1) and (2) of this section, a district may assess a fee against a person requesting a variance to cover the administrative cost of consideration of the variance, including, but not limited to, costs of copying records and the cost of publishing a notice in a legal newspaper of general circulation in the county or counties of the district, radio announcements, or other means of communication deemed necessary in the area where the property is located.

Source: Laws 1975, LB 577, § 8; Laws 1979, LB 26, § 2; Laws 1982, LB 375, § 18; Laws 1984, LB 1071, § 6; Laws 1986, LB 894, § 24; Laws 1993, LB 3, § 10; Laws 1993, LB 131, § 29; Laws 1995, LB 871, § 6; R.S.Supp., 1995, § 46-663; Laws 1996, LB 108, § 14; R.S. 1943, (1998), § 46-656.08; Laws 2004, LB 962, § 47; Laws 2007, LB701, § 22; Laws 2009, LB477, § 5; Laws 2012, LB743, § 1; Laws 2014, LB513, § 1.

46-708 Action to control or prevent runoff of water; natural resources district; rules and regulations; power to issue cease and desist orders; notice; hearing.

(1) In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, each person who uses ground water irrigation in the state shall take action to control or prevent the runoff of water used in such irrigation.

(2) Each district shall adopt, following public hearing, notice of which shall be given in the manner provided in section 46-743, rules and regulations necessary to control or prohibit surface runoff of water derived from ground water irrigation. Such rules and regulations shall prescribe (a) standards and criteria delineating what constitutes the inefficient or improper runoff of ground water used in irrigation, (b) procedures to prevent, control, and abate

such runoff, (c) measures for the construction, modification, extension, or operation of remedial measures to prevent, control, or abate runoff of ground water used in irrigation, and (d) procedures for the enforcement of this section.

(3) Each district may, upon three days' notice to the person affected, stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, issue cease and desist orders to enforce any of the provisions of this section or rules and regulations issued pursuant to this section.

Source: Laws 1975, LB 577, § 9; Laws 1978, LB 217, § 1; R.S.1943, (1993), § 46-664; Laws 1996, LB 108, § 17; R.S.1943, (1998), § 46-656.11; Laws 2004, LB 962, § 48; Laws 2014, LB513, § 2.

46-715 River basin, subbasin, or reach; integrated management plan; considerations; contents; amendment; technical analysis; forecast of water available from streamflow.

(1)(a) Whenever the Department of Natural Resources has designated a river basin, subbasin, or reach as overappropriated or has made a final determination that a river basin, subbasin, or reach is fully appropriated, the natural resources districts encompassing such river basin, subbasin, or reach and the department shall jointly develop an integrated management plan for such river basin, subbasin, or reach. The plan shall be completed, adopted, and take effect within three years after such designation or final determination unless the department and the natural resources districts jointly agree to an extension of not more than two additional years.

(b) A natural resources district encompassing a river basin, subbasin, or reach that has not been designated as overappropriated or has not been finally determined to be fully appropriated may, jointly with the department, develop an integrated management plan for such river basin, subbasin, or reach located within the district. The district shall notify the department of its intention to develop an integrated management plan which shall be developed and adopted according to sections 46-715 to 46-717 and subsections (1) and (2) of section 46-718. The objective of an integrated management plan under this subdivision is to manage such river basin, subbasin, or reach to achieve and sustain a balance between water uses and water supplies for the long term. If a district develops an integrated management plan under this subdivision and the department subsequently determines the affected river basin, subbasin, or reach to be fully appropriated, the department and the affected natural resources district may amend the integrated management plan.

(2) In developing an integrated management plan, the effects of existing and potential new water uses on existing surface water appropriators and ground water users shall be considered. An integrated management plan shall include the following: (a) Clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term; (b) a map clearly delineating the geographic area subject to the integrated management plan; (c) one or more of the ground water controls authorized for adoption by natural resources districts pursuant to section 46-739; (d) one or more of the surface water controls authorized for adoption by the department pursuant to section 46-716; and (e) a plan to gather and

evaluate data, information, and methodologies that could be used to implement sections 46-715 to 46-717, increase understanding of the surface water and hydrologically connected ground water system, and test the validity of the conclusions and information upon which the integrated management plan is based. The plan may also provide for utilization of any applicable incentive programs authorized by law. Nothing in the integrated management plan for a fully appropriated river basin, subbasin, or reach shall require a natural resources district to regulate ground water uses in place at the time of the department's preliminary determination that the river basin, subbasin, or reach is fully appropriated, unless such regulation is necessary to carry out the goals and objectives of a basin-wide plan pursuant to section 46-755, but a natural resources district may voluntarily adopt such regulations. The applicable natural resources district may decide to include all water users within the district boundary in an integrated management plan.

(3) In order to provide a process for economic development opportunities and economic sustainability within a river basin, subbasin, or reach, the integrated management plan shall include clear and transparent procedures to track depletions and gains to streamflows resulting from new, retired, or other changes to uses within the river basin, subbasin, or reach. The procedures shall:

(a) Utilize generally accepted methodologies based on the best available information, data, and science;

(b) Include a generally accepted methodology to be utilized to estimate depletions and gains to streamflows, which methodology includes location, amount, and time regarding gains to streamflows as offsets to new uses;

(c) Identify means to be utilized so that new uses will not have more than a de minimis effect upon existing surface water users or ground water users;

(d) Identify procedures the natural resources district and the department will use to report, consult, and otherwise share information on new uses, changes in uses, or other activities affecting water use in the river basin, subbasin, or reach;

(e) Identify, to the extent feasible, potential water available to mitigate new uses, including, but not limited to, water rights leases, interference agreements, augmentation projects, conjunctive use management, and use retirement;

(f) Develop, to the extent feasible, an outline of plans after consultation with and an opportunity to provide input from irrigation districts, public power and irrigation districts, reclamation districts, municipalities, other political subdivisions, and other water users to make water available for offset to enhance and encourage economic development opportunities and economic sustainability in the river basin, subbasin, or reach; and

(g) Clearly identify procedures that applicants for new uses shall take to apply for approval of a new water use and corresponding offset.

Nothing in this subsection shall require revision or amendment of an integrated management plan approved on or before August 30, 2009.

(4) The ground water and surface water controls proposed for adoption in the integrated management plan pursuant to subsection (1) of this section shall, when considered together and with any applicable incentive programs, (a) be consistent with the goals and objectives of the plan, (b) be sufficient to ensure that the state will remain in compliance with applicable state and federal laws

and with any applicable interstate water compact or decree or other formal state contract or agreement pertaining to surface water or ground water use or supplies, and (c) protect the ground water users whose water wells are dependent on recharge from the river or stream involved and the surface water appropriators on such river or stream from streamflow depletion caused by surface water uses and ground water uses begun, in the case of a river basin, subbasin, or reach designated as overappropriated or preliminarily determined to be fully appropriated in accordance with section 46-713, after the date of such designation or preliminary determination.

(5)(a) In any river basin, subbasin, or reach that is designated as overappropriated, when the designated area lies within two or more natural resources districts, the department and the affected natural resources districts shall jointly develop a basin-wide plan for the area designated as overappropriated. Such plan shall be developed using the consultation and collaboration process described in subdivision (b) of this subsection, shall be developed concurrently with the development of the integrated management plan required pursuant to subsections (1) through (4) of this section, and shall be designed to achieve, in the incremental manner described in subdivision (d) of this subsection, the goals and objectives described in subsection (2) of this section. The basin-wide plan shall be adopted after hearings by the department and the affected natural resources districts.

(b) In any river basin, subbasin, or reach designated as overappropriated and subject to this subsection, the department and each natural resources district encompassing such river basin, subbasin, or reach shall jointly develop an integrated management plan for such river basin, subbasin, or reach pursuant to subsections (1) through (4) of this section. Each integrated management plan for a river basin, subbasin, or reach subject to this subsection shall be consistent with any basin-wide plan developed pursuant to subdivision (a) of this subsection. Such integrated management plan shall be developed after consultation and collaboration with irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, and municipalities that rely on water from within the affected area and that, after being notified of the commencement of the plan development process, indicate in writing their desire to participate in such process. In addition, the department or the affected natural resources districts may include designated representatives of other stakeholders. If agreement is reached by all parties involved in such consultation and collaboration process, the department and each natural resources district shall adopt the agreed-upon integrated management plan. If agreement cannot be reached by all parties involved, the integrated management plan shall be developed and adopted by the department and the affected natural resources district pursuant to sections 46-715 to 46-718 or by the Interrelated Water Review Board pursuant to section 46-719.

(c) Any integrated management plan developed under this subsection shall identify the overall difference between the current and fully appropriated levels of development. Such determination shall take into account cyclical supply, including drought, identify the portion of the overall difference between the current and fully appropriated levels of development that is due to conservation measures, and identify the portions of the overall difference between the current and fully appropriated levels of development that are due to water use initiated prior to July 1, 1997, and to water use initiated on or after such date.

(d) Any integrated management plan developed under this subsection shall adopt an incremental approach to achieve the goals and objectives identified under subdivision (2)(a) of this section using the following steps:

(i) The first incremental goals shall be to address the impact of streamflow depletions to (A) surface water appropriations and (B) water wells constructed in aquifers dependent upon recharge from streamflow, to the extent those depletions are due to water use initiated after July 1, 1997, and, unless an interstate cooperative agreement for such river basin, subbasin, or reach is no longer in effect, to prevent streamflow depletions that would cause noncompliance by Nebraska with such interstate cooperative agreement. During the first increment, the department and the affected natural resources districts shall also pursue voluntary efforts, subject to the availability of funds, to offset any increase in streamflow depletive effects that occur after July 1, 1997, but are caused by ground water uses initiated prior to such date. The department and the affected natural resources districts may also use other appropriate and authorized measures for such purpose;

(ii) The department and the affected natural resources districts may amend an integrated management plan subject to this subsection (5) as necessary based on an annual review of the progress being made toward achieving the goals for that increment;

(iii) During the ten years following adoption of an integrated management plan developed under this subsection (5) or during the ten years after the adoption of any subsequent increment of the integrated management plan pursuant to subdivision (d)(iv) of this subsection, the department and the affected natural resources district shall conduct a technical analysis of the actions taken in such increment to determine the progress towards meeting the goals and objectives adopted pursuant to subsection (2) of this section. The analysis shall include an examination of (A) available supplies and changes in long-term availability, (B) the effects of conservation practices and natural causes, including, but not limited to, drought, and (C) the effects of the plan on reducing the overall difference between the current and fully appropriated levels of development identified in subdivision (5)(c) of this section. The analysis shall determine whether a subsequent increment is necessary in the integrated management plan to meet the goals and objectives adopted pursuant to subsection (2) of this section and reduce the overall difference between the current and fully appropriated levels of development identified in subdivision (5)(c) of this section;

(iv) Based on the determination made in subdivision (d)(iii) of this subsection, the department and the affected natural resources districts, utilizing the consultative and collaborative process described in subdivision (b) of this subsection, shall if necessary identify goals for a subsequent increment of the integrated management plan. Subsequent increments shall be completed, adopted, and take effect not more than ten years after adoption of the previous increment; and

(v) If necessary, the steps described in subdivisions (d)(ii) through (iv) of this subsection shall be repeated until the department and the affected natural resources districts agree that the goals and objectives identified pursuant to subsection (2) of this section have been met and the overall difference between the current and fully appropriated levels of development identified in subdivi-

sion (5)(c) of this section has been addressed so that the river basin, subbasin, or reach has returned to a fully appropriated condition.

(6) In any river basin, subbasin, or reach that is designated as fully appropriated or overappropriated and whenever necessary to ensure that the state is in compliance with an interstate compact or decree or a formal state contract or agreement, the department, in consultation with the affected districts, shall forecast on an annual basis the maximum amount of water that may be available from streamflow for beneficial use in the short term and long term in order to comply with the requirement of subdivision (4)(b) of this section. This forecast shall be made by January 1, 2008, and each January 1 thereafter.

Source: Laws 2004, LB 962, § 55; Laws 2006, LB 1226, § 25; Laws 2007, LB701, § 23; Laws 2009, LB54, § 3; Laws 2010, LB764, § 1; Laws 2014, LB1098, § 14.

46-753 Water Resources Trust Fund; created; use; investment; matching funds required; when.

(1) The Water Resources Trust Fund is created. The State Treasurer shall credit to the fund such money as is specifically appropriated thereto by the Legislature, transfers authorized by the Legislature, and such funds, fees, donations, gifts, or bequests received by the Department of Natural Resources from any federal, state, public, or private source for expenditure for the purposes described in the Nebraska Ground Water Management and Protection Act. Money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The fund shall be administered by the department. The department shall adopt and promulgate rules and regulations regarding the allocation and expenditure of money from the fund.

(3) Money in the fund may be expended by the department for costs incurred by the department, by natural resources districts, or by other political subdivisions in (a) determining whether river basins, subbasins, or reaches are fully appropriated in accordance with section 46-713, (b) developing or implementing integrated management plans for such fully appropriated river basins, subbasins, or reaches or for river basins, subbasins, or reaches designated as overappropriated in accordance with section 46-713, (c) developing or implementing integrated management plans in river basins, subbasins, or reaches which have not yet become either fully appropriated or overappropriated, or (d) attaining state compliance with an interstate water compact or decree or other formal state contract or agreement.

(4) Except for funds paid to a political subdivision for forgoing or reducing its own water use or for implementing projects or programs intended to aid the state in complying with an interstate water compact or decree or other formal state contract or agreement, a political subdivision that receives funds from the fund shall provide, or cause to be provided, matching funds in an amount at least equal to twenty percent of the amount received from the fund by that natural resources district or political subdivision. The department shall monitor

programs and activities funded by the fund to ensure that the required match is being provided.

Source: Laws 2004, LB 962, § 93; Laws 2010, LB1057, § 4; Laws 2011, LB2, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

46-755 Basin-wide plan; development and adoption; extension; stated goals and objectives; plan contents; department and natural resources districts; duties; public meeting; report; public hearing.

This section shall apply notwithstanding any other provision of the Nebraska Ground Water Management and Protection Act.

(1) If a river basin as described in subdivision (2)(a) of section 2-1504 includes three or more natural resources districts that, pursuant to subdivision (1)(a) of section 46-715, have been or are required to develop an integrated management plan for all or substantially all (eighty-five percent) of the district, such natural resources districts shall, jointly with the department and the natural resources districts within the same basin, develop and adopt a basin-wide plan for the areas of a basin, subbasin, or reach determined by the department to have hydrologically connected water supplies, except that any natural resources district that has developed and implemented a basin-wide plan pursuant to subsection (5) of section 46-715 shall not be affected by this section. If deemed appropriate by the department and the affected natural resources districts, the basin-wide plan may combine two or more river basins.

(2) An integrated management plan developed under subdivision (1)(a) or (b) of section 46-715 shall ensure such integrated management plan is consistent with any basin-wide plan developed pursuant to this section. However, an integrated management plan may implement additional incentive programs or controls pursuant to section 46-739 if the programs and controls are consistent with the basin-wide plan.

(3) A basin-wide plan shall be completed, adopted, and take effect within three years after April 17, 2014, unless the department and the natural resources districts jointly agree to an extension of not more than an additional two years.

(4) A basin-wide plan shall (a) have clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term, (b) ensure that compliance with any interstate compact or decree or other formal state contract or agreement or applicable state or federal law is maintained, and (c) set forth a timeline to meet the goals and objectives as required under this subdivision, but in no case shall a timeline exceed thirty years after April 17, 2014.

(5)(a) A basin-wide plan developed under this section shall utilize the best generally-accepted methodologies and available information, data, and science to evaluate the effect of existing uses of hydrologically connected water on existing surface water and ground water users. The plan shall include a process to gather and evaluate data, information, and methodologies to increase understanding of the surface water and hydrologically connected ground water

system within the basin, subbasin, or reach and test the validity of the conclusions, information, and assumptions upon which the plan is based.

(b) A basin-wide plan developed under this section shall include a schedule indicating the end date by which the stated goals and objectives are to be achieved and the management actions to be taken to achieve the goals and objectives. To ensure that reasonable progress is being made toward achieving the final goals and objectives of the plan, the schedule shall also include measurable hydrologic objectives and intermediate dates by which the objectives are expected to be met and monitoring plans to measure the extent to which the objectives are being achieved. Such intermediate objectives shall be established in a manner that, if achieved on schedule, will provide a reasonable expectation that the goals of the plan will be achieved by the established end date.

(c) A basin-wide plan shall be developed using a consultation and collaboration process involving representatives from irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, ground water users, range livestock owners, the Game and Parks Commission, and municipalities that rely on water from within the affected area and that, after being notified of the commencement of the plan development process, indicate in writing their desire to become an official participant in such process. The department and affected natural resources districts shall involve official participants in formulating, evaluating, and recommending plans and management actions and work to reach an agreement among all official participants involved in a basin-wide plan. In addition, the department or the affected natural resources districts may include designated representatives of other stakeholders. If agreement is reached by all parties involved in such consultation and collaboration process, the department and the affected natural resources districts shall adopt the agreed-upon basin-wide plan. If agreement cannot be reached by all parties involved, the basin-wide plan shall be developed and adopted by the department and the affected natural resources districts or by the Interrelated Water Review Board pursuant to section 46-719.

(d) Within five years after the adoption of the basin-wide plan, and every five years thereafter, the department and affected natural resources districts shall conduct a technical analysis of the actions taken in a river basin to determine the progress towards meeting the goals and objectives of the plan. The analysis shall include an examination of (i) available supplies, current uses, and changes in long-term water availability, (ii) the effects of conservation practices and natural causes, including, but not limited to, drought, and (iii) the effects of the plan in meeting the goal of sustaining a balance between water uses and water supplies. The analysis shall determine if changes or modifications to the basin-wide plan are needed to meet the goals and objectives pursuant to subdivision (4)(a) of this section. The department and affected natural resources districts shall present the results of the analysis and any recommended modifications to the plan at a public meeting and shall provide for at least a thirty-day public comment period before holding a public hearing on the recommended modifications. The department shall submit a report to the Legislature of the results of this analysis and the progress made under the basin-wide plan. The report shall be submitted electronically. Any official participant or stakeholder may submit comments to the department and affected natural resources districts on the

final basin-wide plan adopted by the department and affected natural resources districts, which shall be made a part of the report to the Legislature.

(e) Before adoption of a basin-wide plan, the department and affected natural resources districts shall schedule at least one public hearing to take testimony on the proposed plan. Any such hearings shall be held in reasonable proximity to the area affected by the plan. Notice of hearings shall be published as provided in section 46-743. All interested persons may appear at any hearings and present testimony or provide other evidence relevant to the issues under consideration. Within sixty days after the final hearing, the department and affected natural resources districts shall jointly determine whether to adopt the plan.

(f) The department and the affected natural resources districts may utilize, when necessary, the Interrelated Water Review Board process provided in section 46-719 for disputes arising from developing, implementing, and enforcing a basin-wide plan developed under this section.

Source: Laws 2014, LB1098, § 15.

46-756 Ground water augmentation project; public hearing; notice.

On and after April 17, 2014, a board shall not vote to enter into a ground water augmentation project without conducting a public hearing on the project, with notice of the hearing given as provided in section 46-743.

Source: Laws 2014, LB1098, § 16.

ARTICLE 11 CHEMIGATION

Section

| | |
|-------------|---|
| 46-1101. | Act, how cited. |
| 46-1103. | Definitions, sections found. |
| 46-1116.01. | Working day, defined. |
| 46-1117. | Permit required; exception; application. |
| 46-1118. | Repealed. Laws 2011, LB 2, § 8. |
| 46-1119. | Emergency permit; application; fee; violation; penalty. |
| 46-1121. | Fees; Chemigation Costs Fund; created; investment; annual permits; renewal. |
| 46-1123. | Districts; annual reports; contents. |
| 46-1125. | Permit denial, suspension, revocation; grounds. |
| 46-1139. | Engaging in chemigation without a permit; penalty; recovery of costs. |
| 46-1140. | Engaging in chemigation with a suspended or revoked permit; penalty; recovery of costs. |
| 46-1141. | Tampering with chemigation equipment; penalty; recovery of costs. |
| 46-1142. | Failure to notify of accident; penalty; recovery of costs. |
| 46-1143. | Other violations; penalty; recovery of costs. |

46-1101 Act, how cited.

Sections 46-1101 to 46-1148 shall be known and may be cited as the Nebraska Chemigation Act.

Source: Laws 1986, LB 284, § 1; Laws 1988, LB 1046, § 1; Laws 2014, LB272, § 1.

46-1103 Definitions, sections found.

For purposes of the Nebraska Chemigation Act, unless the context otherwise requires, the definitions found in sections 46-1104 to 46-1116.01 shall apply.

Source: Laws 1986, LB 284, § 3; Laws 2014, LB272, § 2.

46-1116.01 Working day, defined.

Working day shall mean Monday through Friday but shall not include Saturday, Sunday, or a federal or state holiday. In computing two working days, the day of receipt of the permit is not included and the last day of the two working days is included.

Source: Laws 2014, LB272, § 3.

46-1117 Permit required; exception; application.

No person shall apply or authorize the application of chemicals to land or crops through the use of chemigation unless such person obtains a permit from the district in which the well or diversion is located, except that nothing in this section shall require a person to obtain a chemigation permit to pump or divert water to or through an open discharge system. Any person who intends to engage in chemigation shall, before commencing, file with the district an application for a chemigation permit for each injection location on forms provided by the department or by the district. Upon request, forms shall be made available by the department to each district office and at such other places as may be deemed appropriate. Except as provided in section 46-1119, the district shall review each application, conduct an inspection, and approve or deny the application within forty-five days after the application is filed. An application shall be approved and a permit issued by the district if the irrigation distribution system complies with the equipment requirements of section 46-1127 and the applicator has been certified as a chemigation applicator under sections 46-1128 and 46-1129. A copy of each approved application or the information contained in the application shall be maintained by the district and provided to the department upon request. This section shall not be construed to prevent the use of portable chemigation equipment if such equipment meets the requirements of section 46-1127.

Source: Laws 1986, LB 284, § 17; Laws 2011, LB2, § 4; Laws 2011, LB28, § 1.

46-1118 Repealed. Laws 2011, LB 2, § 8.**46-1119 Emergency permit; application; fee; violation; penalty.**

(1) A person may file an application with the district for an emergency permit on forms provided by the district. The district shall review each emergency application and approve or deny the application within two working days after the application is filed. An emergency application shall be approved and a permit issued by the district if the irrigation distribution system complies with the equipment requirements of section 46-1127 and the applicator has been certified under sections 46-1128 and 46-1129. If the district has not denied an emergency permit within two working days, it shall be deemed approved. Such permit shall be valid for a period of forty-five days from the date of issuance.

(2) The application for an emergency permit shall be accompanied by a fee as established in section 46-1121 not to exceed five hundred dollars payable to the district. For each permit, ten dollars shall be paid by the district to the department. The application shall contain the same information as required in section 46-1120.

(3) Any holder of an emergency permit or an applicator applying chemicals pursuant thereto who violates any of the provisions of this section shall have

such permit automatically revoked without a hearing and shall be guilty of a Class II misdemeanor.

Source: Laws 1986, LB 284, § 19; Laws 2014, LB272, § 4.

46-1121 Fees; Chemigation Costs Fund; created; investment; annual permits; renewal.

(1) To aid in defraying the cost of administration of the Nebraska Chemigation Act, the district shall collect an initial application fee for a permit, a special permit fee, an annual renewal fee, and an emergency permit fee. The fees shall be established by the district and shall be sufficient to cover the ongoing administrative costs and the costs of annual inspection programs by the district and department. The fees collected pursuant to this section shall be established by the district in the amount necessary to pay reasonable costs of administering the permit program pursuant to the act. The fee for a permit and special permit shall not exceed one hundred fifty dollars. The fee for a renewal permit shall not exceed one hundred dollars. The fee for an emergency permit under section 46-1119 shall not exceed five hundred dollars. The district shall adopt and promulgate rules and regulations establishing a fee schedule to be paid to the district by a person or persons applying for a permit to operate a chemigation system.

(2) The fee for initial application for a permit or special permit shall be payable to the district. For each permit, five dollars shall be paid by the district to the department.

(3) The annual fee for renewal of a permit or special permit shall be payable to the district. For each permit, two dollars of the annual fee shall be paid by the district to the department.

(4) All fees shall be used by the district and the department to administer the Nebraska Chemigation Act. The department's fee shall be credited to the Chemigation Costs Fund which is hereby created. All fees collected by the department pursuant to the act shall be remitted to the State Treasurer for credit to the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Chemigation Costs Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) All permits issued pursuant to sections 46-1117 and 46-1117.01 shall be annual permits and shall expire each year on June 1. A permit may be renewed each year upon payment of the annual renewal fee and completion of a form provided by the district which lists the names of all chemicals used in chemigation the previous year. Once a permit has expired, it shall not be reinstated without meeting all of the requirements for a new permit including an inspection and payment of the initial application fee.

Source: Laws 1986, LB 284, § 21; Laws 1987, LB 146, § 5; Laws 1988, LB 1046, § 3; Laws 1995, LB 7, § 43; Laws 2009, First Spec. Sess., LB3, § 21; Laws 2014, LB272, § 5.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

46-1123 Districts; annual reports; contents.

Annual reports shall be submitted to the department by the district personnel showing the actual number of applications received, the number of applications approved, the number of inspections made, and the name of all chemicals used in chemigation systems within the district during the previous year.

Source: Laws 1986, LB 284, § 23; Laws 2011, LB28, § 2.

46-1125 Permit denial, suspension, revocation; grounds.

The district shall deny, refuse renewal of, suspend, or revoke a permit applied for or issued pursuant to section 46-1117 on any of the following grounds:

(1) Practice of fraud or deceit in obtaining a permit; or

(2) Violation of any of the provisions of the Nebraska Chemigation Act or any standards or rules and regulations adopted and promulgated pursuant to such act.

Source: Laws 1986, LB 284, § 25; Laws 2011, LB2, § 5.

46-1139 Engaging in chemigation without a permit; penalty; recovery of costs.

Any person who engages in chemigation without first obtaining a chemigation permit shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class II misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Source: Laws 1986, LB 284, § 39; Laws 2015, LB207, § 1.

46-1140 Engaging in chemigation with a suspended or revoked permit; penalty; recovery of costs.

Any person who engages in chemigation with a suspended or revoked chemigation permit shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class II misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Source: Laws 1986, LB 284, § 40; Laws 2015, LB207, § 2.

46-1141 Tampering with chemigation equipment; penalty; recovery of costs.

Any person who willfully tampers with or otherwise willfully damages in any way equipment meeting the requirements specified in section 46-1127 shall be (1) subject to a civil penalty of one thousand dollars for each day at each site

where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class I misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Source: Laws 1986, LB 284, § 41; Laws 2015, LB207, § 3.

46-1142 Failure to notify of accident; penalty; recovery of costs.

Any permitholder who fails to notify the district and the department of any actual or suspected accident resulting from the use of chemigation shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class III misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Source: Laws 1986, LB 284, § 42; Laws 2015, LB207, § 4.

46-1143 Other violations; penalty; recovery of costs.

Any person who violates any of the provisions of the Nebraska Chemigation Act for which a specific penalty is not provided shall be (1) subject to a civil penalty of one thousand dollars for each day at each site where a violation occurs for the first violation and not less than one thousand dollars and not more than five thousand dollars for each day at each site where a violation occurs for each subsequent violation or (2) guilty of a Class IV misdemeanor. Each day of continued violation shall constitute a separate offense. The court may issue such injunctive orders as may be necessary to prohibit continued violations of the Nebraska Chemigation Act. When the Attorney General, a county attorney, or a private attorney brings an action on behalf of a district to recover a civil penalty under this section, the district shall recover the costs of the action if a civil penalty is awarded.

Source: Laws 1986, LB 284, § 43; Laws 2015, LB207, § 5.

ARTICLE 12

WATER WELL STANDARDS AND CONTRACTORS' LICENSING

Section

46-1224. Board; set fees; Water Well Standards and Contractors' Licensing Fund; created; use; investment.

46-1224 Board; set fees; Water Well Standards and Contractors' Licensing Fund; created; use; investment.

(1) Except as otherwise provided in subsections (2) through (4) of this section, the board shall set reasonable fees in an amount calculated to recover

the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act. Such fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Practice Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the online services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) Fees for credentialing individuals under the Water Well Standards and Contractors' Practice Act shall be established and collected as provided in sections 38-151 to 38-157.

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(4) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee

shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

Source: Laws 1986, LB 310, § 24; Laws 1993, LB 131, § 45; Laws 1994, LB 981, § 17; Laws 1994, LB 1066, § 34; Laws 1999, LB 92, § 4; Laws 2000, LB 900, § 236; Laws 2001, LB 667, § 18; Laws 2003, LB 242, § 8; Laws 2007, LB463, § 1161; Laws 2011, LB27, § 2.

Cross References

Industrial Ground Water Regulatory Act, see section 46-690.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 13 WATER QUALITY MONITORING

Section

- 46-1304. Report required; Department of Environmental Quality; duties.
46-1305. Report required; natural resources district; duties.

46-1304 Report required; Department of Environmental Quality; duties.

The Department of Environmental Quality shall prepare a report outlining the extent of ground water quality monitoring conducted by natural resources districts during the preceding calendar year. The department shall analyze the data collected for the purpose of determining whether or not ground water quality is degrading or improving and shall present the results electronically to the Natural Resources Committee of the Legislature beginning December 1, 2001, and each year thereafter. The districts shall submit in a timely manner all ground water quality monitoring data collected to the department or its designee. The department shall use the data submitted by the districts in conjunction with all other readily available and compatible data for the purposes of the annual ground water quality trend analysis.

Source: Laws 2001, LB 329, § 11; Laws 2012, LB782, § 56.

46-1305 Report required; natural resources district; duties.

Each natural resources district shall submit electronically an annual report to the Natural Resources Committee of the Legislature detailing all water quality programs conducted by the district in the preceding calendar year. The report shall include the funds received and expended for water quality projects and a listing of any unfunded projects. The first report shall be submitted on or before December 1, 2001, and then each December 1 thereafter.

Source: Laws 2001, LB 329, § 12; Laws 2012, LB782, § 57.

ARTICLE 16 SAFETY OF DAMS AND RESERVOIRS ACT

Section

- 46-1654. Application approval; issuance; public hearing; notice to department; when.
46-1657. New or modified dam; owner; filing requirements; approval to operate; issuance.

46-1654 Application approval; issuance; public hearing; notice to department; when.

(1) Approval of applications for which approval under sections 46-233 to 46-242 is not required shall be issued within ninety days after receipt of the completed application plus any extensions of time required to resolve matters diligently pursued by the applicant. At the discretion of the department, one or more public hearings may be held on an application.

(2) Approval of applications under the Safety of Dams and Reservoirs Act, for which approval under sections 46-233 to 46-242 is required, shall not be issued until all pending matters before the department under the Safety of Dams and Reservoirs Act or such sections have been resolved and approved.

(3) Application approval shall be granted with terms, conditions, and limitations necessary to safeguard life and property.

(4) If actual construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is not commenced within the time established by the department, the application approval becomes void, except that the department may, upon written application and for good cause shown, extend the time for commencing construction, reconstruction, enlargement, alteration, breach, removal, or abandonment. If approval under sections 46-233 to 46-242 is also required, the department may not extend the time for commencing construction without following the procedures and granting a similar extension under subsection (2) of section 46-238.

(5) Written notice shall be provided to the department at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment is to begin and such other notices shall be given to the department as it may require.

Source: Laws 2005, LB 335, § 54; Laws 2009, LB209, § 2; Laws 2011, LB32, § 1.

46-1657 New or modified dam; owner; filing requirements; approval to operate; issuance.

(1) Upon completion of a new or reconstructed dam and reservoir or of the enlargement of a dam and reservoir, the owner shall file with the department, without a filing fee, a completion certification accompanied by supplementary drawings or descriptive matter signed and sealed by the design engineer, showing or describing the work as actually completed. Such supplementary materials may include, but need not be limited to, the following as determined by the department:

(a) A record of all geological boreholes and grout holes and grouting;

(b) A record of permanent location points, benchmarks, and instruments embedded in the structure;

(c) A record of tests of concrete or other material used in the construction, reconstruction, or enlargement of the dam; and

(d) A record of initial seepage flows and embedded instrument readings.

(2) In connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work.

(3) An approval to operate shall be issued by the department upon a finding by the department that the dam is safe to impound within the limitations

prescribed in the application approval. No impoundment by the structure shall occur prior to issuance of the approval to operate.

Source: Laws 2005, LB 335, § 57; Laws 2017, LB154, § 1.

ARTICLE 17

WATER AUGMENTATION PROJECT

Section

46-1701. Water augmentation project for streamflow enhancement; joint entity or natural resources district; voluntary payments in lieu of taxes; duties; notice; hearing; annual report; contents.

46-1701 Water augmentation project for streamflow enhancement; joint entity or natural resources district; voluntary payments in lieu of taxes; duties; notice; hearing; annual report; contents.

(1) Any joint entity created pursuant to the Interlocal Cooperation Act or natural resources district that acquires title to private lands for the purpose of developing and operating a water augmentation project for streamflow enhancement, as authorized by section 46-715, may agree to make voluntary payments in lieu of taxes to the county treasurer of the county in which the land is located. A payment in lieu of tax may be made for any year in which the joint entity or natural resources district owns the land, including any year prior to March 1, 2018. The amount of the payment in lieu of tax for any year shall not be more than the real property taxes that would have been paid on the land if the land were subject to taxation. The county treasurer shall allocate the payment in lieu of tax to the taxing units in the county in the same proportion that property taxes would have been allocated to such taxing units if the land were subject to taxation.

(2) Any joint entity created pursuant to the Interlocal Cooperation Act or natural resources district that has secured a contract or memorandum of agreement to acquire title to private land for the purpose of developing and operating a water augmentation project for streamflow enhancement, as authorized by section 46-715, shall:

(a) Provide public notice of the joint entity's or district's intention to proceed with the water augmentation project. The notice shall include the project's intended purpose, an estimate of the amount of water that will be pumped for the purpose of augmentation, and the timeframe in which the water will be used;

(b) Hold a public hearing and accept public comment on the project; and

(c) Seek the input of officials from the county in which the project will be located and adjoining landowners on ways to minimize the effects of the project on the county.

(3)(a) Any joint entity created pursuant to the Interlocal Cooperation Act or natural resources district that is operating a water augmentation project for streamflow enhancement shall publish an annual report that includes the following information regarding the project:

(i) Details on the operation of the project;

(ii) The amount of water pumped;

(iii) The amount of land leased and for what purposes;

(iv) The amount of revenue gained from land leases;

- (v) The amount of payments made in lieu of taxes;
- (vi) Financial details of the project, including the amount of debt, the amount of outstanding bonds and loans, and the project budget;
- (vii) Whether the project is achieving its intended purpose;
- (viii) The effect of the project on ground water supplies; and
- (ix) Projections for use of the project in the future and the effect of the use on ground water supplies.

(b) The joint entity or natural resources district shall provide public notice and hold a public hearing to allow an opportunity for public comment on the report required under subdivision (3)(a) of this section.

(4) Any joint entity created pursuant to the Interlocal Cooperation Act or natural resources district that has acquired title to private lands for the purpose of developing and operating a water augmentation project for streamflow enhancement, as authorized by section 46-715, shall submit all leases relating to such lands to the appropriate county assessor within thirty days after the effective date of the lease.

Source: Laws 2018, LB758, § 1.
Effective date March 1, 2018.

Cross References

Interlocal Cooperation Act, see section 13-801.

CHAPTER 47

JAILS AND CORRECTIONAL FACILITIES

Article.

1. County Jails. 47-101 to 47-116.
2. City Jails. 47-201 to 47-206.
4. Permission to Leave Jail; House Arrest. 47-401.
5. Sentence Reductions and Credits. 47-502.
6. Community Corrections. 47-621 to 47-639.
7. Medical Services. 47-701 to 47-706.
9. Office of Inspector General of the Nebraska Correctional System Act. 47-901 to 47-920.

ARTICLE 1

COUNTY JAILS

Section

- 47-101. County jails; regulation; duties and powers of Jail Standards Board.
- 47-101.01. Telephone services for inmates; use of funds.
- 47-101.02. Inmate communications; Jail Standards Board; duties.
- 47-108. Grand jury; instructions with respect to jails and discipline; duty of district court.
- 47-109. Jails; inspection; duty of grand juries and county boards; reports.
- 47-116. Jails; sheriff or jailer; neglect of duty; penalty.

47-101 County jails; regulation; duties and powers of Jail Standards Board.

The Jail Standards Board shall, each January, and at such other time or times as it may deem necessary, prescribe, in writing, rules for the regulation and government of the jails upon the following subjects: (1) The cleanliness of the jail and prisoners; (2) the classification of prisoners in regard to sex, age, and crime, and also persons with physical or mental disabilities; (3) beds, clothing, and diet; (4) warming, lighting, and ventilation of the jail; (5) the employment of medical and surgical aid when necessary; (6) employment, temperance, and instruction of the prisoners; (7) the supplying of each prisoner with a Bible or other written religious material; (8) the intercourse between prisoners and their counsel and other persons, including access to telephones or videoconferencing as required in section 47-101.01; (9) the discipline of prisoners for violation of the rules of the jail; and (10) such other matters as the board may deem necessary to promote the welfare of the prisoners.

Source: R.S.1866, c. 29, § 1, p. 242; R.S.1913, § 3529; C.S.1922, § 2996; C.S.1929, § 47-101; R.S.1943, § 47-101; Laws 1986, LB 1177, § 24; Laws 1996, LB 233, § 2; Laws 2018, LB776, § 1.
Effective date July 19, 2018.

47-101.01 Telephone services for inmates; use of funds.

(1) Each county jail shall make available either a prepaid telephone call system or collect telephone call system, or a combination thereof, for telephone services for inmates. Under either system, the provision of inmate telephone services shall be subject to the requirements of this section.

(2) Under a prepaid system, funds may be deposited into an inmate account in order to pay for telephone calls. The provider of the inmate telephone services, as an additional means of payment, shall permit the recipient of inmate collect telephone calls to establish an account with that provider in order to deposit funds for advance payment of those collect telephone calls. The provider of the inmate telephone services shall also allow inmates to communicate on the telephone, or by videoconferencing, with an attorney or attorneys without charge and without monitoring or recording by the county jail or law enforcement.

(3) A county operating a county jail may receive revenue for the reasonable operating costs for establishing and administering such telephone services system or videoconferencing system, but shall not receive excessive commissions or bonus payments. In determining the amount of such reasonable operating costs, the Jail Standards Board may consider for comparative purposes the rates for inmate calling services provided in 47 C.F.R. part 64. Amounts in excess of the reasonable operating costs include, but are not limited to, any excessive commissions and bonus payments, as determined by the Jail Standards Board, including, but not limited to, awards paid to a county for contracting with an entity that provides such service.

(4) Nothing in this section shall require a county jail to provide or administer a prepaid telephone call system.

(5) For the purposes of this section, collect telephone call system means a system pursuant to which recipients are billed for the cost of an accepted telephone call initiated by an inmate.

Source: Laws 2018, LB776, § 2.
Effective date July 19, 2018.

47-101.02 Inmate communications; Jail Standards Board; duties.

The Jail Standards Board shall ensure that county jails are providing inmates with means to communicate by telephone or videoconferencing with inmates' families, loved ones, and counsel.

Source: Laws 2018, LB776, § 3.
Effective date July 19, 2018.

47-108 Grand jury; instructions with respect to jails and discipline; duty of district court.

It shall be the duty of the district court in its charge to the grand jury to inform the jury of the provisions of sections 47-101 to 47-116 and all rules, plans, or regulations established by the Jail Standards Board relating to county jails and prison discipline.

Source: R.S.1866, c. 29, § 8, p. 245; R.S.1913, § 3536; C.S.1922, § 3003; C.S.1929, § 47-108; R.S.1943, § 47-108; Laws 1996, LB 233, § 8; Laws 2018, LB776, § 4.
Effective date July 19, 2018.

47-109 Jails; inspection; duty of grand juries and county boards; reports.

The grand jury of each county in this state may, while in attendance, visit the jail, examine its state and condition, and examine and inquire into the discipline and treatment of prisoners, their habits, diet, and accommodations. If the

grand jury visits a jail, it shall be its duty to report to the court in writing, whether the rules of the Jail Standards Board have been faithfully kept and observed, or whether any of the provisions of sections 47-101 to 47-116, have been violated, pointing out particularly in what the violation, if any, consists. It shall also be the duty of the county board of each county of this state to visit the jail of its county once during each of its sessions in January, April, July, and October of each year.

Source: R.S.1866, c. 29, § 9, p. 245; R.S.1913, § 3537; C.S.1922, § 3004; C.S.1929, § 47-109; R.S.1943, § 47-109; Laws 1961, c. 232, § 1, p. 687; Laws 1996, LB 233, § 9; Laws 2018, LB776, § 5.
Effective date July 19, 2018.

47-116 Jails; sheriff or jailer; neglect of duty; penalty.

If the sheriff or jailer, having charge of any county jail, shall neglect or refuse to conform to all or any of the rules and regulations established by the Jail Standards Board, or to perform any other duty required of him or her by sections 47-101 to 47-116, he or she shall, upon conviction thereof for each case of such failure or neglect of duty, pay into the county treasury of the proper county for the use of such county a fine of not less than five dollars nor more than one hundred dollars, to be assessed by the district court of the proper district.

Source: R.S.1866, c. 29, § 14, p. 246; R.S.1913, § 3542; C.S.1922, § 3009; C.S.1929, § 47-114; R.S.1943, § 47-116; Laws 1996, LB 233, § 11; Laws 2018, LB776, § 6.
Effective date July 19, 2018.

ARTICLE 2

CITY JAILS

Section

- 47-201. City jails; regulation; duties and powers of Jail Standards Board.
- 47-201.01. Telephone services for inmates; use of funds.
- 47-201.02. Inmate communications; Jail Standards Board; duties.
- 47-206. Jailer; neglect of duty; penalty.

47-201 City jails; regulation; duties and powers of Jail Standards Board.

The Jail Standards Board shall, each January, and at such other time or times as it may deem necessary, prescribe written rules for the regulation and government of the municipal jails upon the subjects of (1) the cleanliness of the jail and prisoners, (2) the classification of prisoners in regard to sex, age, crime, and also persons with physical or mental disabilities, (3) beds, clothing, and diet, (4) warming, lighting, and ventilation of the jail, (5) the employment of medical and surgical aid, (6) the employment, temperance, and instruction of the prisoners, (7) the intercourse between prisoners and their attorneys and other persons, including access to telephones or videoconferencing as required by section 47-201.01, (8) the discipline of prisoners, (9) the keeping of records of the jail, and (10) any other matters concerning jails and their government as the board may deem necessary.

Source: Laws 1915, c. 208, § 1, p. 462; C.S.1922, § 3010; C.S.1929, § 47-115; R.S.1943, § 47-201; Laws 1996, LB 233, § 12; Laws 2018, LB776, § 7.
Effective date July 19, 2018.

47-201.01 Telephone services for inmates; use of funds.

(1) Each city jail shall make available either a prepaid telephone call system or collect telephone call system, or a combination thereof, for telephone services for inmates. Under either system, the provision of inmate telephone services shall be subject to the requirements of this section.

(2) Under a prepaid system, funds may be deposited into an inmate account in order to pay for telephone calls. The provider of the inmate telephone services, as an additional means of payment, shall permit the recipient of inmate collect telephone calls to establish an account with that provider in order to deposit funds for advance payment of those collect telephone calls. The provider of the inmate telephone services shall also allow inmates to communicate on the telephone, or by videoconferencing, with an attorney or attorneys without charge and without monitoring or recording by the city jail or law enforcement.

(3) A city operating a city jail may receive revenue for the reasonable operating costs for establishing and administering such telephone services system or videoconferencing system, but shall not receive excessive commissions or bonus payments. In determining the amount of such reasonable operating costs, the Jail Standards Board may consider for comparative purposes the rates for inmate calling services provided in 47 C.F.R. part 64. Amounts in excess of the reasonable operating costs include, but are not limited to, any excessive commissions and bonus payments, as determined by the Jail Standards Board, including, but not limited to, awards paid to a city for contracting with an entity that provides such service.

(4) Nothing in this section shall require a city jail to provide or administer a prepaid telephone call system.

(5) For the purposes of this section, collect telephone call system means a system pursuant to which recipients are billed for the cost of an accepted telephone call initiated by an inmate.

Source: Laws 2018, LB776, § 8.
Effective date July 19, 2018.

47-201.02 Inmate communications; Jail Standards Board; duties.

The Jail Standards Board shall ensure that city jails are providing inmates with means to communicate by telephone or videoconferencing with inmates' families, loved ones, and counsel.

Source: Laws 2018, LB776, § 9.
Effective date July 19, 2018.

47-206 Jailer; neglect of duty; penalty.

The officer in charge of any municipal prison or jail who fails to comply with the provisions of sections 47-201 to 47-205 or the rules prescribed by the Jail Standards Board shall be guilty of a Class V misdemeanor.

Source: Laws 1915, c. 208, § 6, p. 463; C.S.1922, § 3015; C.S.1929, § 47-120; R.S.1943, § 47-206; Laws 1977, LB 40, § 269; Laws 1996, LB 233, § 17; Laws 2018, LB776, § 10.
Effective date July 19, 2018.

ARTICLE 4

PERMISSION TO LEAVE JAIL; HOUSE ARREST

Section

47-401. Person sentenced to or confined in a city or county jail; permission to leave; when; sentence served at other facility; house arrest.

47-401 Person sentenced to or confined in a city or county jail; permission to leave; when; sentence served at other facility; house arrest.

(1) Any person sentenced to or confined in a city or county jail upon conviction for a misdemeanor, a felony, contempt, or nonpayment of any fine or forfeiture or as the result of a custodial sanction imposed in response to a parole or probation violation may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment;

(b) Working at his or her employment;

(c) Conducting such person's own business or other self-employed occupation, including housekeeping and attending to the needs of such person's family;

(d) Attending any high school, college, university, or other educational or vocational training program or institution;

(e) Serious illness or death of a member of such person's immediate family;

(f) Medical treatment;

(g) Outpatient or inpatient treatment for alcohol or substance abuse; or

(h) Engaging in other rehabilitative activities, including, but not limited to, attending a program or service provided at a reporting center.

(2) Any person sentenced to or confined in a city or county jail upon conviction for a misdemeanor or nonpayment of any fine or forfeiture or as the result of a custodial sanction imposed in response to a parole or probation violation may be granted the privilege of serving the sentence or a part of the sentence at a house of correction, community residential center, work release center, halfway house, or other place of confinement properly designated as a jail facility in accordance with this section and sections 15-259, 47-117, 47-207, and 47-409.

(3) Any person sentenced to or confined in a city or county jail upon conviction for a misdemeanor, a felony, contempt, or nonpayment of any fine or forfeiture or as the result of a custodial sanction imposed in response to a parole or probation violation may be granted the privilege of serving all or part of the sentence under house arrest. For purposes of this subsection, house arrest means restricting an offender to a specific residence except for authorized periods of absence for employment or for medical, educational, or other reasons approved by the court. House arrest may be monitored by electronic surveillance devices or systems.

Source: Laws 1969, c. 208, § 1, p. 813; Laws 1975, LB 276, § 1; Laws 1979, LB 315, § 5; Laws 1990, LB 399, § 1; Laws 2003, LB 17, § 18; Laws 2016, LB1094, § 26.

ARTICLE 5
SENTENCE REDUCTIONS AND CREDITS

Section

47-502. Person sentenced to or confined in jail; sentence or sanction reduction.

47-502 Person sentenced to or confined in jail; sentence or sanction reduction.

Any person sentenced to or confined in a city or county jail, including any person serving a custodial sanction imposed in response to a parole or probation violation, shall, after the fifteenth day of his or her confinement, have his or her remaining term reduced one day for each day of his or her sentence or sanction during which he or she has not committed any breach of discipline or other violation of jail regulations.

Source: Laws 1982, LB 231, § 2; R.S.Supp.,1982, § 23-2811; Laws 1983, LB 180, § 5; Laws 1993, LB 113, § 2; Laws 2010, LB712, § 40; Laws 2016, LB1094, § 27.

ARTICLE 6
COMMUNITY CORRECTIONS

Section

- 47-621. Terms, defined.
 47-622. Community Corrections Division; created.
 47-623. Repealed. Laws 2011, LB 390, § 39.
 47-624. Division; duties.
 47-624.01. Division; plan for implementation and funding of reporting centers; duties.
 47-625. Repealed. Laws 2011, LB 390, § 39.
 47-627. Uniform crime data analysis system.
 47-628. Community correctional programming; condition of probation.
 47-629. Community correctional programming; paroled offenders.
 47-630. Repealed. Laws 2011, LB 390, § 39.
 47-631. Repealed. Laws 2011, LB 390, § 39.
 47-632. Community Corrections Uniform Data Analysis Cash Fund; created; use; investment.
 47-634. Receipt of funds by local entity; local advisory committee required; plan required.
 47-635. Repealed. Laws 2011, LB 390, § 39.
 47-636. Repealed. Laws 2011, LB 390, § 39.
 47-637. Repealed. Laws 2011, LB 390, § 39.
 47-638. Repealed. Laws 2011, LB 390, § 39.
 47-639. Repealed. Laws 2011, LB 390, § 39.

47-621 Terms, defined.

For purposes of the Community Corrections Act:

(1) Community correctional facility or program means a community-based or community-oriented facility or program which (a) is operated either by the state or by a contractor which may be a unit of local government or a nongovernmental agency, (b) may be designed to provide residential accommodations for adult offenders, (c) provides programs and services to aid adult offenders in obtaining and holding regular employment, enrolling in and maintaining participation in academic courses, participating in vocational training programs, utilizing the resources of the community to meet their personal and family needs, obtaining mental health, alcohol, and drug treatment, and participating

in specialized programs that exist within the community, and (d) offers community supervision options, including, but not limited to, drug treatment, mental health programs, and day reporting centers;

(2) Director means the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(3) Division means the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice;

(4) Nongovernmental agency means any person, private nonprofit agency, corporation, association, labor organization, or entity other than the state or a political subdivision of the state; and

(5) Unit of local government means a county, city, village, or entity established pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act.

Source: Laws 2003, LB 46, § 33; Laws 2005, LB 538, § 12; Laws 2011, LB390, § 6.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

47-622 Community Corrections Division; created.

The Legislature declares that the policy of the State of Nebraska is that there shall be a coordinated effort to (1) establish community correctional programs across the state in order to divert adult felony offenders from the prison system and (2) provide necessary supervision and services to adult felony offenders with the goal of reducing the probability of criminal behavior while maintaining public safety. To further such policy, the Community Corrections Division is created within the Nebraska Commission on Law Enforcement and Criminal Justice. The director shall appoint and remove employees of the division and delegate appropriate powers and duties to such employees.

Source: Laws 2003, LB 46, § 34; Laws 2005, LB 538, § 13; Laws 2011, LB390, § 7.

47-623 Repealed. Laws 2011, LB 390, § 39.

47-624 Division; duties.

The division shall:

(1) Collaborate with the Office of Probation Administration, the Division of Parole Supervision, and the Department of Correctional Services to develop and implement a plan to establish statewide operation and use of a continuum of community correctional facilities and programs;

(2) Develop, in consultation with the probation administrator and the Director of Supervision and Services of the Division of Parole Supervision, standards for the use of community correctional facilities and programs by the Nebraska Probation System and the parole system;

(3) Collaborate with the Office of Probation Administration, the Division of Parole Supervision, and the Department of Correctional Services on the development of additional reporting centers as set forth in section 47-624.01;

(4) Analyze and promote the consistent use of offender risk assessment tools;

(5) Educate the courts, the Board of Parole, criminal justice system stakeholders, and the general public about the availability, use, and benefits of community correctional facilities and programs;

(6) Enter into and administer contracts, if necessary, to carry out the purposes of the Community Corrections Act;

(7) In order to ensure adequate funding for substance abuse treatment programs, consult with the probation administrator and the Director of Supervision and Services of the Division of Parole Supervision and develop or assist with the development of programs as provided in subdivision (14) of section 29-2252 and subdivision (8) of section 83-1,102;

(8) Study substance abuse and mental health treatment services in and related to the criminal justice system, recommend improvements, and evaluate the implementation of improvements;

(9) Research and evaluate existing community correctional facilities and programs, within the limits of available funding;

(10) Develop standardized definitions of outcome measures for community correctional facilities and programs, including, but not limited to, recidivism, employment, and substance abuse;

(11) Report annually to the Legislature and the Governor on the development and performance of community correctional facilities and programs. The report submitted to the Legislature shall be submitted electronically. The report shall include, but not be limited to, the following:

(a) A description of community correctional facilities and programs currently serving offenders in Nebraska, which includes the following information:

(i) The target population and geographic area served by each facility or program, eligibility requirements, and the total number of offenders utilizing the facility or program over the past year;

(ii) Services, programs, assessments, case management, supervision, and tools provided for offenders at the facility, in the program, or under the supervision of a governmental agency in any capacity;

(iii) The costs of operating the facility or program and the cost per offender; and

(iv) The funding sources for the facility or program;

(b) The progress made in expanding community correctional facilities and programs statewide and an analysis of the need for additional community corrections services;

(c) An analysis of the impact community correctional facilities and programs have on the number of offenders incarcerated within the Department of Correctional Services; and

(d) The recidivism rates and outcome data for probationers, parolees, and problem-solving-court clients participating in community corrections programs;

(12) Grant funds to entities including local governmental agencies, nonprofit organizations, and behavioral health services which will support the intent of the act;

(13) Manage all offender data acquired by the division in a confidential manner and develop procedures to ensure that identifiable information is not released;

(14) Establish and administer grants, projects, and programs for the operation of the division; and

(15) Perform such other duties as may be necessary to carry out the policy of the state established in the act.

Source: Laws 2003, LB 46, § 36; Laws 2005, LB 538, § 15; Laws 2006, LB 1113, § 47; Laws 2010, LB864, § 2; Laws 2011, LB390, § 8; Laws 2012, LB782, § 58; Laws 2012, LB817, § 3; Laws 2016, LB679, § 1; Laws 2018, LB841, § 6.
Effective date July 19, 2018.

47-624.01 Division; plan for implementation and funding of reporting centers; duties.

(1) The division shall collaborate with the Office of Probation Administration, the Division of Parole Supervision, and the Department of Correctional Services in developing a plan for the implementation and funding of reporting centers in Nebraska.

(2) The plan shall include recommended locations for at least one reporting center in each district court judicial district that currently lacks such a center and shall prioritize the recommendations for additional reporting centers based upon need.

(3) The plan shall also identify and prioritize the need for expansion of reporting centers in those district court judicial districts which currently have a reporting center but have an unmet need for additional reporting center services due to capacity, distance, or demographic factors.

Source: Laws 2010, LB864, § 3; Laws 2011, LB390, § 9; Laws 2018, LB841, § 7.
Effective date July 19, 2018.

47-625 Repealed. Laws 2011, LB 390, § 39.

47-627 Uniform crime data analysis system.

The director shall develop and maintain a uniform crime data analysis system in Nebraska which shall include, but need not be limited to, the number of offenses, arrests, charges, probation admissions, probation violations, probation discharges, participants in specialized community corrections programs, admissions to and discharges from problem-solving courts, admissions to and discharges from the Department of Correctional Services, parole reviews, parole hearings, releases on parole, parole violations, and parole discharges. The data shall be categorized by statutory crime. The data shall be collected from the Board of Parole, the State Court Administrator, the Department of Correctional Services, the Division of Parole Supervision, the Office of Probation Administration, the Nebraska State Patrol, counties, local law enforcement, and any other entity associated with criminal justice. The division and the Supreme Court shall have access to such data to implement the Community Corrections Act.

Source: Laws 2003, LB 46, § 39; Laws 2005, LB 538, § 17; Laws 2011, LB390, § 10; Laws 2012, LB817, § 4; Laws 2018, LB841, § 8.
Effective date July 19, 2018.

47-628 Community correctional programming; condition of probation.

(1) A sentencing judge may sentence an offender to probation conditioned upon community correctional programming.

(2) A sentence to a community correctional program or facility shall be imposed as a condition of probation pursuant to the Nebraska Probation Administration Act. The court may modify the sentence of an offender serving a sentence in a community correctional program in the same manner as if the offender had been placed on probation.

(3) The Office of Probation Administration shall utilize community correctional facilities and programs as appropriate.

Source: Laws 2003, LB 46, § 40; Laws 2011, LB390, § 11.

Cross References

Nebraska Probation Administration Act, see section 29-2269.

47-629 Community correctional programming; paroled offenders.

(1) The Board of Parole may parole an offender to a community correctional facility or program pursuant to guidelines developed by the division.

(2) The Department of Correctional Services and the Division of Parole Supervision shall utilize community correctional facilities and programs as appropriate.

Source: Laws 2003, LB 46, § 41; Laws 2011, LB390, § 12; Laws 2018, LB841, § 9.

Effective date July 19, 2018.

47-630 Repealed. Laws 2011, LB 390, § 39.

47-631 Repealed. Laws 2011, LB 390, § 39.

47-632 Community Corrections Uniform Data Analysis Cash Fund; created; use; investment.

(1) The Community Corrections Uniform Data Analysis Cash Fund is created. Except as provided in subsections (2), (3), and (4) of this section, the fund shall be within the Nebraska Commission on Law Enforcement and Criminal Justice, shall be administered by the division, and shall only be used to support operations costs and analysis relating to the implementation and coordination of the uniform analysis of crime data pursuant to the Community Corrections Act, including associated information technology projects. The fund shall consist of money collected pursuant to section 47-633.

(2) Transfers may be made from the fund to the General Fund at the direction of the Legislature.

(3) The State Treasurer shall transfer the following amounts from the Community Corrections Uniform Data Analysis Cash Fund to the Violence Prevention Cash Fund:

(a) Two hundred thousand dollars on July 1, 2011, or as soon thereafter as administratively possible; and

(b) Two hundred thousand dollars on July 1, 2012, or as soon thereafter as administratively possible.

(4) The State Treasurer shall transfer the following amounts from the Community Corrections Uniform Data Analysis Cash Fund to the Nebraska Law Enforcement Training Center Cash Fund:

(a) Two hundred thousand dollars on July 1, 2017, or as soon thereafter as administratively possible; and

(b) Two hundred thousand dollars on July 1, 2018, or as soon thereafter as administratively possible.

(5) Any money in the Community Corrections Uniform Data Analysis Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2003, LB 46, § 44; Laws 2005, LB 426, § 11; Laws 2005, LB 538, § 19; Laws 2007, LB322, § 6; Laws 2009, LB63, § 31; Laws 2009, First Spec. Sess., LB3, § 23; Laws 2011, LB378, § 21; Laws 2011, LB390, § 13; Laws 2017, LB331, § 23.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

47-634 Receipt of funds by local entity; local advisory committee required; plan required.

For a local entity to receive funds under the Community Corrections Act, the division shall ensure there is a local advisory committee made up of a broad base of community members concerned with the justice system. Submission of a detailed plan including a budget, program standards, and policies as developed by the local advisory committee shall be required as set forth by the division. Such funds shall be used for the implementation of the recommendations of the division, the expansion of sentencing options, the education of the public, the provision of supplemental community-based corrections programs, and the promotion of coordination between state and county community-based corrections programs.

Source: Laws 2006, LB 1113, § 48; Laws 2011, LB390, § 14.

47-635 Repealed. Laws 2011, LB 390, § 39.

47-636 Repealed. Laws 2011, LB 390, § 39.

47-637 Repealed. Laws 2011, LB 390, § 39.

47-638 Repealed. Laws 2011, LB 390, § 39.

47-639 Repealed. Laws 2011, LB 390, § 39.

ARTICLE 7

MEDICAL SERVICES

Section

47-701. Medical services, defined; responsibility for payment.

47-703. Payment by governmental agency; when; notice to provider.

47-706. Medical assistance; federal financial participation; legislative intent; Department of Health and Human Services; Department of Correctional Services; duties.

47-701 Medical services, defined; responsibility for payment.

(1) Notwithstanding any other provision of law, and except as provided in section 44-713, sections 47-701 to 47-705 shall govern responsibility for pay-

ment of the costs of medical services for any person ill, wounded, injured, or otherwise in need of such services at the time such person is arrested, detained, taken into custody, or incarcerated.

(2) For purposes of sections 47-701 to 47-705, the term medical services includes medical and surgical care and treatment, hospitalization, transportation, medications and prescriptions, and other associated items.

Source: Laws 1999, LB 112, § 1; Laws 2018, LB480, § 2.
Effective date July 19, 2018.

47-703 Payment by governmental agency; when; notice to provider.

(1) Upon a showing that reimbursement from the sources enumerated in section 47-702 is not available, in whole or in part, the costs of medical services shall be paid by the appropriate governmental agency. Such payment shall be made within ninety days after such showing. For purposes of this section, a showing shall be deemed sufficient if a provider of medical services signs an affidavit stating that (a) in the case of an insurer, health maintenance organization, preferred provider organization, or other similar source, a written denial of payment has been issued or (b) in all other cases, efforts have been made to identify sources and to collect from those sources and more than one hundred eighty days have passed or the normal collection efforts are exhausted since the medical services were rendered but full payment has not been received. Such affidavit shall be forwarded to the appropriate governmental agency. In no event shall the provider of medical services be required to file a suit in a court of law or retain the services of a collection agency to satisfy the requirement of showing that reimbursement is not available pursuant to this section.

(2) In the case of medical services necessitated by injuries or wounds suffered during the course of apprehension or arrest, the appropriate governmental agency chargeable for the costs of medical services shall be the apprehending or arresting agency and not the agency responsible for operation of the institution or facility in which the recipient of the services is lodged. In all other cases, the appropriate governmental agency shall be the agency responsible for operation of the institution or facility in which the recipient of the services is lodged, except that when the agency is holding the individual solely for another jurisdiction, the agency may, by contract or otherwise, seek reimbursement from the other jurisdiction for the costs of the medical services provided to the individual being held for that jurisdiction.

(3) Except as provided in section 47-705, a governmental agency shall not be responsible for paying the costs of any medical services provided to an individual if such services are provided after he or she is released from the legal custody of the governmental agency or when the individual is released on parole.

(4) Any governmental agency requesting medical services for an individual who is arrested, detained, taken into custody, or incarcerated shall notify the provider of such services of (a) all information possessed by the agency concerning potential sources of payment and (b) the name of the appropriate governmental agency pursuant to subsection (2) of this section.

Source: Laws 1999, LB 112, § 3; Laws 2012, LB881, § 1.

47-706 Medical assistance; federal financial participation; legislative intent; Department of Health and Human Services; Department of Correctional Services; duties.

(1) It is the intent of the Legislature to ensure that human services agencies, correctional facilities, and detention facilities recognize that:

(a) Federal law generally does not authorize federal financial participation for medicaid when a person is an inmate of a public institution as defined in federal law but that federal financial participation is available after an inmate is released from incarceration; and

(b) The fact that an applicant is currently an inmate does not, in and of itself, preclude the Department of Health and Human Services from processing an application submitted to it by, or on behalf of, the inmate.

(2)(a) Medical assistance under the medical assistance program shall be suspended, rather than canceled or terminated, for a person who is an inmate of a public institution if:

(i) The Department of Health and Human Services is notified of the person's entry into the public institution;

(ii) On the date of entry, the person was enrolled in the medical assistance program; and

(iii) The person is eligible for the medical assistance program except for institutional status.

(b) A suspension under subdivision (2)(a) of this section shall end on the date the person is no longer an inmate of a public institution.

(c) Upon release from incarceration, such person shall continue to be eligible for receipt of medical assistance until such time as the person is otherwise determined to no longer be eligible for the medical assistance program.

(3)(a) The Department of Correctional Services shall notify the Department of Health and Human Services:

(i) Within twenty days after receiving information that a person receiving medical assistance under the medical assistance program is or will be an inmate of a public institution; and

(ii) Within forty-five days prior to the release of a person who qualified for suspension under subdivision (2)(a) of this section.

(b) Local correctional facilities, juvenile detention facilities, and other temporary detention centers shall notify the Department of Health and Human Services within ten days after receiving information that a person receiving medical assistance under the medical assistance program is or will be an inmate of a public institution.

(4) Nothing in this section shall create a state-funded benefit or program.

(5) For purposes of this section, medical assistance program means the medical assistance program under the Medical Assistance Act and the State Children's Health Insurance Program.

(6) This section shall be implemented only if, and to the extent, allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained. The Department of Health and Human Services shall seek such approval if required.

(7) Local correctional facilities, the Nebraska Commission on Law Enforcement and Criminal Justice, and the Office of Probation Administration shall cooperate with the Department of Health and Human Services and the Department of Correctional Services for purposes of facilitating information sharing to achieve the purposes of this section.

(8)(a) The Department of Correctional Services shall adopt and promulgate rules and regulations, in consultation with the Department of Health and Human Services and local correctional facilities, to carry out this section.

(b) The Department of Health and Human Services shall adopt and promulgate rules and regulations, in consultation with the Department of Correctional Services and local correctional facilities, to carry out this section.

Source: Laws 2015, LB605, § 108.

Cross References

Medical Assistance Act, see section 68-901.

ARTICLE 9

OFFICE OF INSPECTOR GENERAL OF THE NEBRASKA CORRECTIONAL SYSTEM ACT

Section

- 47-901. Act, how cited.
- 47-902. Legislative intent.
- 47-903. Terms, defined.
- 47-904. Office of Inspector General of the Nebraska Correctional System; created; Inspector General; appointment; term; qualifications; employees; removal.
- 47-905. Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.
- 47-906. Office; access to information and personnel; investigation.
- 47-907. Complaints to office; form; full investigation; when; notice.
- 47-908. Cooperation with office; when required.
- 47-909. Failure to cooperate; effect.
- 47-910. Inspector General; powers; rights of person required to provide information.
- 47-911. Office; access to records; subpoena; records; statement of record integrity and security; contents; treatment of records.
- 47-912. Reports of investigations; distribution; redact confidential information; powers of office.
- 47-913. Department; provide direct computer access.
- 47-914. Inspector General's report of investigation; contents; distribution.
- 47-915. Report; director; accept, reject, or request modification; when final; written response; corrected report; appended material.
- 47-916. Report or work product; no court review.
- 47-917. Inspector General; investigation of complaints; priority and selection.
- 47-918. Summary of reports and investigations; contents.
- 47-919. Division of Parole Supervision; provide access to records, reports, and documents.
- 47-920. Limitations on personnel action.

47-901 Act, how cited.

Sections 47-901 to 47-920 shall be known and may be cited as the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 2015, LB598, § 1; Laws 2016, LB1094, § 28; Laws 2017, LB539, § 1.

47-902 Legislative intent.

(1) It is the intent of the Legislature to:

(a) Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska correctional system;

(b) Assist in improving operations of the department and the Nebraska correctional system;

(c) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the supervision and release of persons in the Nebraska correctional system. A lack of responsibility and accountability between individuals and private agencies in the current system make it difficult to monitor and oversee the Nebraska correctional system; and

(d) Provide a process for investigation and review in order to improve policies and procedures of the correctional system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of the Nebraska Correctional System Act to interfere with the duties of the Legislative Auditor or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogatives of any officer, agency, board, bureau, commission, association, society, or institution of the executive branch of state government, except that the act does not preclude an inquiry on the sole basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogatives of the Governor to investigate, monitor, and report on the activities of the agencies, boards, bureaus, commissions, associations, societies, and institutions of the executive branch under his or her administrative direction.

Source: Laws 2015, LB598, § 2.

47-903 Terms, defined.

For purposes of the Office of Inspector General of the Nebraska Correctional System Act, the following definitions apply:

(1) Administrator means a person charged with administration of a program, an office, or a division of the department or administration of a private agency;

(2) Department means the Department of Correctional Services;

(3) Director means the Director of Correctional Services;

(4) Division of Parole Supervision means the division created pursuant to section 83-1,100;

(5) Inspector General means the Inspector General of the Nebraska Correctional System appointed under section 47-904;

(6) Malfeasance means a wrongful act that the actor has no legal right to do or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty;

(7) Management means supervision of subordinate employees;

(8) Misfeasance means the improper performance of some act that a person may lawfully do;

(9) Obstruction means hindering an investigation, preventing an investigation from progressing, stopping or delaying the progress of an investigation, or making the progress of an investigation difficult or slow;

(10) Office means the office of Inspector General of the Nebraska Correctional System and includes the Inspector General and other employees of the office;

(11) Private agency means an entity that contracts with the department or contracts to provide services to another entity that contracts with the department; and

(12) Record means any recording in written, audio, electronic transmission, or computer storage form, including, but not limited to, a draft, memorandum, note, report, computer printout, notation, or message, and includes, but is not limited to, medical records, mental health records, case files, clinical records, financial records, and administrative records.

Source: Laws 2015, LB598, § 3; Laws 2016, LB1094, § 29; Laws 2018, LB841, § 10.

Effective date July 19, 2018.

47-904 Office of Inspector General of the Nebraska Correctional System; created; Inspector General; appointment; term; qualifications; employees; removal.

(1) The office of Inspector General of the Nebraska Correctional System is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska correctional system. The Inspector General shall be appointed by the Public Counsel with approval from the chairperson of the Executive Board of the Legislative Council and the chairperson of the Judiciary Committee of the Legislature.

(2) The Inspector General shall be appointed for a term of five years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department shall be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department. Not later than two years after the date of appointment, the Inspector General shall obtain certification as a Certified Inspector General by the Association of Inspectors General, its successor, or another nationally recognized organization that provides and sponsors educational programs and establishes professional qualifications, certifications, and licensing for inspectors general. During his or her employment, the Inspector General shall not be actively involved in partisan affairs.

(3) The Inspector General shall employ such investigators and support staff as he or she deems necessary to carry out the duties of the office within the amount available by appropriation through the office of Public Counsel for the office of Inspector General of the Nebraska Correctional System. The Inspector General shall be subject to the control and supervision of the Public Counsel, except that removal of the Inspector General shall require approval of the chairperson of the Executive Board of the Legislative Council and the chairperson of the Judiciary Committee of the Legislature.

Source: Laws 2015, LB598, § 4.

47-905 Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of the department by an employee of or a person under contract with the department or a private agency; and

(b) Death or serious injury in private agencies, department correctional facilities, and other programs and facilities licensed by or under contract with the department. The department shall report all cases of death or serious injury of a person in a private agency, department correctional facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases of the death or serious injury of an employee when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases when an employee is hospitalized in response to an injury received when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such hospitalization. For purposes of this subdivision, serious injury means an injury which requires urgent and immediate medical treatment and restricts the injured person's usual activity.

(2) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to sections 23-1821 to 23-1823.

(3) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any investigation conducted by the Inspector General and shall, immediately upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of the Nebraska Correctional System Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys shall, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector General's investigation. If the Inspector General in conjunction with the Public Counsel determines it appropriate, the Inspector General may, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution.

Source: Laws 2015, LB598, § 5; Laws 2017, LB539, § 2.

47-906 Office; access to information and personnel; investigation.

(1) The office shall have access to all information and personnel necessary to perform the duties of the office.

(2) A full investigation conducted by the office shall consist of retrieval of relevant records through subpoena, request, or voluntary production, review of all relevant records, and interviews of all relevant persons.

Source: Laws 2015, LB598, § 6.

47-907 Complaints to office; form; full investigation; when; notice.

(1) Complaints to the office may be made in writing. A complaint shall be evaluated to determine if it alleges possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department by an employee of or a person under contract with the department or a private agency. All complaints shall be evaluated to determine whether a full investigation is warranted.

(2) The office shall not conduct a full investigation of a complaint unless:

(a) The complaint alleges misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department;

(b) The complaint is against a person within the jurisdiction of the office; and

(c) The allegations can be independently verified through investigation.

(3) The Inspector General shall determine within fourteen days after receipt of a complaint whether the office will conduct a full investigation.

(4) When a full investigation is opened on a private agency that contracts with the department, the Inspector General shall give notice of such investigation to the department.

Source: Laws 2015, LB598, § 7.

47-908 Cooperation with office; when required.

All employees of the department, all employees of the Division of Parole Supervision, and all owners, operators, managers, supervisors, and employees of private agencies shall cooperate with the office. Cooperation includes, but is not limited to, the following:

(1) Provision of full access to and production of records and information. Providing access to and producing records and information for the office is not a violation of confidentiality provisions under any statute, rule, or regulation if done in good faith for purposes of an investigation under the Office of Inspector General of the Nebraska Correctional System Act;

(2) Fair and honest disclosure of records and information reasonably requested by the office in the course of an investigation under the act;

(3) Encouraging employees to fully comply with reasonable requests of the office in the course of an investigation under the act;

(4) Prohibition of retaliation by owners, operators, or managers against employees for providing records or information or filing or otherwise making a complaint to the office;

(5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office;

(6) Provision of complete and truthful answers to questions posed by the office in the course of an investigation; and

(7) Not willfully interfering with or obstructing the investigation.

Source: Laws 2015, LB598, § 8; Laws 2016, LB1094, § 30; Laws 2018, LB841, § 11.
Effective date July 19, 2018.

47-909 Failure to cooperate; effect.

Failure to cooperate with an investigation by the office may result in discipline or other sanctions.

Source: Laws 2015, LB598, § 9.

47-910 Inspector General; powers; rights of person required to provide information.

The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned.

Source: Laws 2015, LB598, § 10.

47-911 Office; access to records; subpoena; records; statement of record integrity and security; contents; treatment of records.

(1) In conducting investigations, the office shall access all relevant records through subpoena, compliance with a request by the office, and voluntary production. The office may request or subpoena any record necessary for the investigation from the department or a private agency that is pertinent to an investigation. All case files, licensing files, medical records, financial and administrative records, and records required to be maintained pursuant to applicable licensing rules shall be produced for review by the office in the course of an investigation.

(2) Compliance with a request of the office includes:

- (a) Production of all records requested;
- (b) A diligent search to ensure that all appropriate records are included; and
- (c) A continuing obligation to immediately forward to the office any relevant records received, located, or generated after the date of the request.

(3) The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation, and does not unnecessarily disrupt department programs or services. When advance notice to an administrator or his or her designee is not provided, the office investigator shall, upon arrival at the departmental office, bureau, or division or private agency, request that an onsite employee notify the administrator or his or her designee of the investigator's arrival.

(4) When circumstances of an investigation require, the office may make an unannounced visit to a departmental office, bureau, or division, a department correctional facility, or a private agency to request records relevant to an investigation.

(5) A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured by request as the result of a visit by the office, stating:

(a) That the responsible individual or the administrator has made a diligent search of the office, bureau, division, private agency, or department correctional facility to determine that all appropriate records in existence at the time of the request were produced;

(b) That the responsible individual or the administrator agrees to immediately forward to the office any relevant records received, located, or generated after the visit;

(c) The persons who have had access to the records since they were secured; and

(d) Whether, to the best of the knowledge of the responsible individual or the administrator, any records were removed from or added to the record since it was secured.

(6) The office shall permit a responsible individual, an administrator, or an employee of a departmental office, bureau, or division, a private agency, or a department correctional facility to make photocopies of the original records within a reasonable time in the presence of the office for purposes of creating a working record in a manner that assures confidentiality.

(7) The office shall present to the responsible individual or the administrator or other employee of the departmental office, bureau, or division, private agency, or department correctional facility a copy of the request, stating the date and the titles of the records received.

(8) If an original record is provided during an investigation, the office shall return the original record as soon as practical but no later than ten working days after the date of the compliance request.

(9) All investigations conducted by the office shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

Source: Laws 2015, LB598, § 11.

47-912 Reports of investigations; distribution; redact confidential information; powers of office.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) The office shall redact confidential information before distributing a report of an investigation. The office may disclose confidential information to the chairperson of the Judiciary Committee of the Legislature when such disclosure is, in the judgment of the Public Counsel, desirable to keep the chairperson informed of important events, issues, and developments in the Nebraska correctional system.

(3)(a) A summarized final report based on an investigation may be publicly released in order to bring awareness to systemic issues.

(b) Such report shall be released only:

(i) After a disclosure is made to the chairperson pursuant to subsection (2) of this section; and

(ii) If a determination is made by the Inspector General with the chairperson that doing so would be in the best interest of the public.

(c) If there is disagreement about whether releasing the report would be in the best interest of the public, the chairperson of the Executive Board of the Legislative Council may be asked to make the final decision.

(4) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conducted by the office are not public records for purposes of sections 84-712 to 84-712.09.

(5) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 2015, LB598, § 12; Laws 2017, LB539, § 3.

47-913 Department; provide direct computer access.

The department shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained by the department in connection with administration of the Nebraska correctional system, except that the Public Counsel's and Inspector General's access to an inmate's medical or mental health records shall be subject to the inmate's consent.

Source: Laws 2015, LB598, § 13.

47-914 Inspector General's report of investigation; contents; distribution.

(1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. The report may recommend systemic reform or case-specific action, including a recommendation for discharge or discipline of employees or for sanctions against a private agency. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of an investigation shall be presented to the director within fifteen days after the report is presented to the Public Counsel.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, violation of statute, or violation of rules and regulations by an employee of the department or a private agency that is relevant to providing appropriate supervision of an employee may be shared with the employer of such employee. The employer may not further distribute the report or any confidential information contained in the report.

Source: Laws 2015, LB598, § 14.

47-915 Report; director; accept, reject, or request modification; when final; written response; corrected report; appended material.

(1) Within fifteen days after a report is presented to the director under section 47-914, he or she shall determine whether to accept, reject, or request in

writing modification of the recommendations contained in the report. The Inspector General, with input from the Public Counsel, may consider the director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director to accept or reject the recommendations in the report or, if the director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier.

(2) Within fifteen days after the report is presented to the director, the report shall be presented to the private agency or other provider of correctional services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within forty-five days after receipt of the report, the private agency or other provider may submit a written response to the office to correct any factual errors in the report. The Inspector General, with input from the Public Counsel, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within fifteen days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section or if the corrected report does not address all issues raised in the written response, the private agency or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

Source: Laws 2015, LB598, § 15.

47-916 Report or work product; no court review.

No report or other work product of an investigation by the Inspector General shall be reviewable in any court. Neither the Inspector General nor any member of his or her staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within his or her official cognizance except in a proceeding brought to enforce the Office of Inspector General of the Nebraska Correctional System Act.

Source: Laws 2015, LB598, § 16.

47-917 Inspector General; investigation of complaints; priority and selection.

The Office of Inspector General of the Nebraska Correctional System Act does not require the Inspector General to investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska correctional system. If the Inspector General determines that he or she will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

Source: Laws 2015, LB598, § 17.

47-918 Summary of reports and investigations; contents.

On or before September 15 of each year, the Inspector General shall provide to each member of the Judiciary Committee of the Legislature, the Governor, and the Clerk of the Legislature a summary of reports and investigations made

under the Office of Inspector General of the Nebraska Correctional System Act for the preceding year. The summary provided to the Clerk of the Legislature shall be provided electronically. The summaries shall include recommendations and an update on the status of recommendations made in prior summaries, if any. The recommendations may address issues discovered through investigations, audits, inspections, and reviews by the office that will (1) increase accountability and legislative oversight of the Nebraska correctional system, (2) improve operations of the department and the Nebraska correctional system, (3) deter and identify fraud, abuse, and illegal acts, and (4) identify inconsistencies between statutory requirements and requirements for accreditation. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

Source: Laws 2015, LB598, § 18.

47-919 Division of Parole Supervision; provide access to records, reports, and documents.

The Division of Parole Supervision shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained in connection with administration of the Nebraska parole system, except that access for the Public Counsel and the Inspector General to a parolee's medical or mental health records shall be subject to the parolee's consent.

Source: Laws 2016, LB1094, § 31; Laws 2018, LB841, § 12.
Effective date July 19, 2018.

47-920 Limitations on personnel action.

Any person who has authority to recommend, approve, direct, or otherwise take or affect personnel action shall not, with respect to such authority:

(1) Take personnel action against an employee because of the disclosure of information by the employee to the office which the employee reasonably believes evidences wrongdoing under the Office of Inspector General of the Nebraska Correctional System Act;

(2) Take personnel action against an employee as a reprisal for the submission of an allegation of wrongdoing under the act to the office by such employee; or

(3) Take personnel action against an employee as a reprisal for providing information or testimony pursuant to an investigation by the office.

Source: Laws 2017, LB539, § 4.

LABOR

CHAPTER 48

LABOR

Article.

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 - Part II—Elective Compensation.
 - (c) Schedule of Compensation. 48-120 to 48-126.01.
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ARTICLE 1

WORKERS' COMPENSATION

PART I—COMPENSATION BY ACTION AT LAW, MODIFICATION OF REMEDIES

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- 48-101.01. Mental injuries and mental illness; first responder; frontline state employee; compensation; when.

PART II—ELECTIVE COMPENSATION

(c) SCHEDULE OF COMPENSATION

- 48-120. Medical, surgical, and hospital services; employer's liability; fee schedule; physician, right to select; procedures; powers and duties; court; powers; dispute resolution procedure; managed care plan.

LABOR

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- 48-120.04. Diagnostic Related Group inpatient hospital fee schedule; trauma services inpatient hospital fee schedule; established; applicability; adjustments; methodology; hospital; duties; reports; compensation court; powers and duties.
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PART I—COMPENSATION BY ACTION AT LAW,
MODIFICATION OF REMEDIES

48-101.01 Mental injuries and mental illness; first responder; frontline state employee; compensation; when.

(1) Personal injury includes mental injuries and mental illness unaccompanied by physical injury for an employee who is a first responder or frontline state employee if such first responder or frontline state employee:

(a) Establishes, by a preponderance of the evidence, that the employee's employment conditions causing the mental injury or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and

(b) Establishes, by a preponderance of the evidence, the medical causation between the mental injury or mental illness and the employment conditions by medical evidence.

(2) For purposes of this section, mental injuries and mental illness arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal employer and employee relations, including, but not limited to, personnel actions by the employer such as disciplinary actions, work evaluations, transfers, promotions, demotions, salary reviews, or terminations.

(3) For purposes of this section:

(a) First responder means a sheriff, a deputy sheriff, a police officer, an officer of the Nebraska State Patrol, a volunteer or paid firefighter, or a volunteer or paid individual licensed under a licensure classification in subdivision (1) of section 38-1217 who provides medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Frontline state employee means an employee of the Department of Correctional Services or the Department of Health and Human Services whose duties involve regular and direct interaction with high-risk individuals;

(c) High-risk individual means an individual in state custody for whom violent or physically intimidating behavior is common, including, but not limited to, a committed offender as defined in section 83-170, a patient at a regional center as defined in section 71-911, and a juvenile committed to the Youth Rehabilitation and Treatment Center-Kearney or the Youth Rehabilitation and Treatment Center-Geneva; and

(d) State custody means under the charge or control of a state institution or state agency and includes time spent outside of the state institution or state agency.

Source: Laws 2010, LB780, § 1; Laws 2012, LB646, § 2; Laws 2017, LB444, § 2.

PART II—ELECTIVE COMPENSATION

(c) SCHEDULE OF COMPENSATION

48-120 Medical, surgical, and hospital services; employer's liability; fee schedule; physician, right to select; procedures; powers and duties; court; powers; dispute resolution procedure; managed care plan.

(1)(a) The employer is liable for all reasonable medical, surgical, and hospital services, including plastic surgery or reconstructive surgery but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and includes damage to or destruction of artificial members, dental appliances, teeth, hearing instruments, and eyeglasses, but, in the case of dental appliances, hearing instruments, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases.

(b) Except as provided in section 48-120.04, the compensation court shall establish schedules of fees for such services. The compensation court shall review such schedules at least biennially and adopt appropriate changes when necessary. The compensation court may contract with any person, firm, corporation, organization, or government agency to secure adequate data to establish such fees. The compensation court shall publish and furnish to the public the fee schedules established pursuant to this subdivision and section 48-120.04. The compensation court may establish and charge a fee to recover the cost of published fee schedules.

(c) Reimbursement for inpatient hospital services provided by hospitals located in or within fifteen miles of a Nebraska city of the metropolitan class or primary class and by other hospitals with fifty-one or more licensed beds shall be according to the Diagnostic Related Group inpatient hospital fee schedule or the trauma services inpatient hospital fee schedule established in section 48-120.04.

(d) A workers' compensation insurer, risk management pool, self-insured employer, or managed care plan certified pursuant to section 48-120.02 may contract with a provider or provider network for medical, surgical, or hospital services. Such contract may establish fees for services different than the fee schedules established under subdivision (1)(b) of this section or established under section 48-120.04. Such contract shall be in writing and mutually agreed upon prior to the date services are provided.

(e) The provider or supplier of such services shall not collect or attempt to collect from any employer, insurer, government, or injured employee or dependent or the estate of any injured or deceased employee any amount in excess of (i) the fee established by the compensation court for any such service, (ii) the fee established under section 48-120.04, or (iii) the fee contracted under subdivision (1)(d) of this section, including any finance charge or late penalty.

(2)(a) The employee has the right to select a physician who has maintained the employee's medical records prior to an injury and has a documented

history of treatment with the employee prior to an injury or a physician who has maintained the medical records of an immediate family member of the employee prior to an injury and has a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this subsection, immediate family member means the employee's spouse, children, parents, stepchildren, and stepparents. The employer shall notify the employee following an injury of such right of selection in a form and manner and within a timeframe established by the compensation court. If the employer fails to notify the employee of such right of selection or fails to notify the employee of such right of selection in a form and manner and within a timeframe established by the compensation court, then the employee has the right to select a physician. If the employee fails to exercise such right of selection in a form and manner and within a timeframe established by the compensation court following notice by the employer pursuant to this subsection, then the employer has the right to select the physician. If selection of the initial physician is made by the employee or employer pursuant to this subsection following notice by the employer pursuant to this subsection, the employee or employer shall not change the initial selection of physician made pursuant to this subsection unless such change is agreed to by the employee and employer or is ordered by the compensation court pursuant to subsection (6) of this section. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, (i) the employee has the right to select a physician and shall not be made to enter a managed care plan and (ii) the employer is liable for medical, surgical, and hospital services subsequently found to be compensable. If the employer has exercised the right to select a physician pursuant to this subsection and if the compensation court subsequently orders reasonable medical services previously refused to be furnished to the employee by the physician selected by the employer, the compensation court shall allow the employee to select another physician to furnish further medical services. If the employee selects a physician located in a community not the home or place of work of the employee and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her workers' compensation insurer.

(b) In cases of injury requiring dismemberment or injuries involving major surgical operation, the employee may designate to his or her employer the physician or surgeon to perform the operation.

(c) If the injured employee unreasonably refuses or neglects to avail himself or herself of medical or surgical treatment furnished by the employer, except as herein and otherwise provided, the employer is not liable for an aggravation of such injury due to such refusal and neglect and the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the Nebraska Workers' Compensation Act.

(d) If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee or the employer is unable to select a physician using the procedures provided by this subsection, the selection requirements of this subsection shall not apply as long as the inability to make a selection persists.

(e) The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury requires.

(f) The employer is not responsible for medical services furnished or ordered by any physician or other person selected by the employee in disregard of this section. Except as otherwise provided by the Nebraska Workers' Compensation Act, the employer is not liable for medical, surgical, or hospital services or medicines if the employee refuses to allow them to be furnished by the employer.

(3) No claim for such medical treatment is valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer a report of such injury and treatment on a form prescribed by the compensation court. The compensation court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

(4) All physicians and other providers of medical services attending injured employees shall comply with all the rules and regulations adopted and promulgated by the compensation court and shall make such reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. All medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, the employee, the workers' compensation insurer, and the compensation court. The party requesting such medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workers' compensation claim. When a physician or other provider of medical services willfully fails to make any report required of him or her under this section, the compensation court may order the forfeiture of his or her right to all or part of payment due for services rendered in connection with the particular case.

(5) Whenever the compensation court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the compensation court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The compensation court may charge the cost of such examination to the workers' compensation insurer. The cost of such examination shall include the payment to the employee of all necessary and reasonable expenses incident to such examination, such as transportation and loss of wages.

(6) The compensation court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital, rehabilitation facility, or other medical services when it deems such change is desirable or necessary. Any dispute regarding medical, surgical, or hospital services furnished or to be furnished under this section may be submitted by the parties, the supplier of such service, or the compensation court on its own motion for informal dispute resolution by a staff member of the compensation court or an outside mediator pursuant to section 48-168. In addition, any party or the compensation court on its own motion may submit such a dispute for a medical finding by an independent medical examiner pursuant to section 48-134.01. Issues submitted for informal dispute resolution or for a medical finding by an independent medical examiner may include, but are not limited to, the reasonableness and necessity of any medical treatment previously

provided or to be provided to the injured employee. The compensation court may adopt and promulgate rules and regulations regarding informal dispute resolution or the submission of disputes to an independent medical examiner that are considered necessary to effectuate the purposes of this section.

(7) For the purpose of this section, physician has the same meaning as in section 48-151.

(8) The compensation court shall order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the compensation court.

(9) Notwithstanding any other provision of this section, a workers' compensation insurer, risk management pool, or self-insured employer may contract for medical, surgical, hospital, and rehabilitation services to be provided through a managed care plan certified pursuant to section 48-120.02. Once liability for medical, surgical, and hospital services has been accepted or determined, the employer may require that employees subject to the contract receive medical, surgical, and hospital services in the manner prescribed in the contract, except that an employee may receive services from a physician selected by the employee pursuant to subsection (2) of this section if the physician so selected agrees to refer the employee to the managed care plan for any other treatment that the employee may require and if the physician so selected agrees to comply with all the rules, terms, and conditions of the managed care plan. If compensability is denied by the workers' compensation insurer, risk management pool, or self-insured employer, the employee may leave the managed care plan and the employer is liable for medical, surgical, and hospital services previously provided. The workers' compensation insurer, risk management pool, or self-insured employer shall give notice to employees subject to the contract of eligible service providers and such other information regarding the contract and manner of receiving medical, surgical, and hospital services under the managed care plan as the compensation court may prescribe.

Source: Laws 1913, c. 198, § 20, p. 585; R.S.1913, § 3661; Laws 1917, c. 85, § 6, p. 202; Laws 1919, c. 91, § 1, p. 228; Laws 1921, c. 122, § 1, p. 520; C.S.1922, § 3043; C.S.1929, § 48-120; Laws 1935, c. 57, § 19, p. 197; C.S.Supp.,1941, § 48-120; R.S.1943, § 48-120; Laws 1965, c. 278, § 1, p. 799; Laws 1969, c. 388, § 2, p. 1359; Laws 1969, c. 392, § 1, p. 1376; Laws 1975, LB 127, § 1; Laws 1978, LB 529, § 2; Laws 1979, LB 215, § 1; Laws 1986, LB 811, § 38; Laws 1987, LB 187, § 1; Laws 1992, LB 360, § 13; Laws 1993, LB 757, § 2; Laws 1998, LB 1010, § 2; Laws 1999, LB 216, § 3; Laws 2005, LB 238, § 3; Laws 2007, LB588, § 1; Laws 2009, LB195, § 51; Laws 2011, LB152, § 1; Laws 2015, LB480, § 2.

48-120.04 Diagnostic Related Group inpatient hospital fee schedule; trauma services inpatient hospital fee schedule; established; applicability; adjustments; methodology; hospital; duties; reports; compensation court; powers and duties.

(1) This section applies only to hospitals identified in subdivision (1)(c) of section 48-120.

(2) For inpatient discharges on or after January 1, 2008, the Diagnostic Related Group inpatient hospital fee schedule shall be as set forth in this

section, except as otherwise provided in subdivision (1)(d) of section 48-120. Adjustments shall be made annually as provided in this section, with such adjustments to become effective each January 1.

(3) For inpatient trauma discharges on or after January 1, 2012, the trauma services inpatient hospital fee schedule shall be as set forth in this section, except as otherwise provided in subdivision (1)(d) of section 48-120. Adjustments shall be made annually as provided in this section, with such adjustments to become effective each January 1.

(4) For purposes of this section:

(a) Current Medicare Factor is derived from the Diagnostic Related Group Prospective Payment System as established by the Centers for Medicare and Medicaid Services under the United States Department of Health and Human Services and means the summation of the following components:

(i) Hospital-specific Federal Standardized Amount, including all wage index adjustments and reclassifications;

(ii) Hospital-specific Capital Standard Federal Rate, including geographic, outlier, and exception adjustment factors;

(iii) Hospital-specific Indirect Medical Education Rate, reflecting a percentage add-on for indirect medical education costs and related capital; and

(iv) Hospital-specific Disproportionate Share Hospital Rate, reflecting a percentage add-on for disproportionate share of low-income patient costs and related capital;

(b) Current Medicare Weight means the weight assigned to each Medicare Diagnostic Related Group as established by the Centers for Medicare and Medicaid Services under the United States Department of Health and Human Services;

(c) Diagnostic Related Group means the Diagnostic Related Group assigned to inpatient hospital services using the public domain classification and methodology system developed for the Centers for Medicare and Medicaid Services under the United States Department of Health and Human Services;

(d) Trauma means a major single-system or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability;

(e) Workers' Compensation Factor means the Current Medicare Factor for each hospital multiplied by one hundred fifty percent except for inpatient hospital trauma services; and

(f) Workers' Compensation Trauma Factor for inpatient hospital trauma services means the Current Medicare Factor for each hospital multiplied by one hundred sixty percent.

(5) The Diagnostic Related Group inpatient hospital fee schedule shall include at least thirty-eight of the most frequently utilized Medicare Diagnostic Related Groups for workers' compensation with the goal that the fee schedule covers at least ninety percent of all workers' compensation inpatient hospital claims submitted by hospitals identified in subdivision (1)(c) of section 48-120. Rehabilitation Diagnostic Related Groups shall not be included in the Diagnostic Related Group inpatient hospital fee schedule. Claims for inpatient trauma services shall not be reimbursed under the Diagnostic Related Group inpatient hospital fee schedule established under this section. Claims for inpatient trauma

ma services prior to January 1, 2012, shall be reimbursed under the fees established by the compensation court pursuant to subdivision (1)(b) of section 48-120 or as contracted pursuant to subdivision (1)(d) of such section. Claims for inpatient trauma services on or after January 1, 2012, for Diagnostic Related Groups subject to the Diagnostic Related Group inpatient hospital fee schedule shall be reimbursed under the trauma services inpatient hospital fee schedule established in this section, except as otherwise provided in subdivision (1)(d) of section 48-120.

(6) The trauma services inpatient hospital fee schedule shall be established by the following methodology:

(a) The trauma services reimbursement amount required under the Nebraska Workers' Compensation Act shall be equal to the Current Medicare Weight multiplied by the Workers' Compensation Trauma Factor for each hospital;

(b) The Stop-Loss Threshold amount shall be the trauma services reimbursement amount calculated in subdivision (6)(a) of this section multiplied by one and one-quarter;

(c) For charges over the Stop-Loss Threshold amount of the schedule, the hospital shall be reimbursed the trauma services reimbursement amount calculated in subdivision (6)(a) of this section plus sixty-five percent of the charges over the Stop-Loss Threshold amount; and

(d) For charges less than the Stop-Loss Threshold amount of the schedule, the hospital shall be reimbursed the lower of the hospital's billed charges or the trauma services reimbursement amount calculated in subdivision (6)(a) of this section.

(7) The Diagnostic Related Group inpatient hospital fee schedule shall be established by the following methodology:

(a) The Diagnostic Related Group reimbursement amount required under the Nebraska Workers' Compensation Act shall be equal to the Current Medicare Weight multiplied by the Workers' Compensation Factor for each hospital;

(b) The Stop-Loss Threshold amount shall be the Diagnostic Related Group reimbursement amount calculated in subdivision (7)(a) of this section multiplied by two and one-half;

(c) For charges over the Stop-Loss Threshold amount of the schedule, the hospital shall be reimbursed the Diagnostic Related Group reimbursement amount calculated in subdivision (7)(a) of this section plus sixty percent of the charges over the Stop-Loss Threshold amount; and

(d) For charges less than the Stop-Loss Threshold amount of the schedule, the hospital shall be reimbursed the lower of the hospital's billed charges or the Diagnostic Related Group reimbursement amount calculated in subdivision (7)(a) of this section.

(8) For charges for all other stays or services that are not reimbursed under the Diagnostic Related Group inpatient hospital fee schedule or the trauma services inpatient hospital fee schedule or are not contracted for under subdivision (1)(d) of section 48-120, the hospital shall be reimbursed under the schedule of fees established by the compensation court pursuant to subdivision (1)(b) of section 48-120.

(9) Each hospital shall assign and include a Diagnostic Related Group on each workers' compensation claim submitted. The workers' compensation

insurer, risk management pool, or self-insured employer may audit the Diagnostic Related Group assignment of the hospital.

(10) The chief executive officer of each hospital shall sign and file with the administrator of the compensation court by October 15 of each year, in the form and manner prescribed by the administrator, a sworn statement disclosing the Current Medicare Factor of the hospital in effect on October 1 of such year and each item and amount making up such factor.

(11) Each hospital, workers' compensation insurer, risk management pool, and self-insured employer shall report to the administrator of the compensation court by October 15 of each year, in the form and manner prescribed by the administrator, the total number of claims submitted for each Diagnostic Related Group, the number of claims for each Diagnostic Related Group that included trauma services, the number of times billed charges exceeded the Stop-Loss Threshold amount for each Diagnostic Related Group, and the number of times billed charges exceeded the Stop-Loss Threshold amount for each trauma service.

(12) The compensation court may add or subtract Diagnostic Related Groups in striving to achieve the goal of including those Diagnostic Related Groups that encompass at least ninety percent of the inpatient hospital workers' compensation claims submitted by hospitals identified in subdivision (1)(c) of section 48-120. The administrator of the compensation court shall annually make necessary adjustments to comply with the Current Medicare Weights and shall annually adjust the Current Medicare Factor for each hospital based on the annual statement submitted pursuant to subsection (10) of this section.

Source: Laws 2007, LB588, § 2; Laws 2009, LB630, § 2; Laws 2010, LB872, § 1; Laws 2011, LB152, § 2.

48-122 Compensation; injuries causing death; amount and duration of payments; computation of wages; expenses of burial; alien dependents.

(1) If death results from injuries and the deceased employee leaves one or more dependents dependent upon his or her earnings for support at the time of injury, the compensation, subject to section 48-123, shall be not more than the maximum weekly income benefit specified in section 48-121.01 nor less than the minimum weekly income benefit specified in section 48-121.01, except that if at the time of injury the employee receives wages of less than the minimum weekly income benefit specified in section 48-121.01, then the compensation shall be the full amount of such wages per week, payable in the amount and to the persons enumerated in section 48-122.01 subject to the maximum limits specified in this section and section 48-122.03.

(2) When death results from injuries suffered in employment, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employee, the weekly wages shall be taken to be computed upon the basis of a workweek of a minimum of five days, if the wages are paid by the day, or upon the basis of a workweek of a minimum of forty hours, if the wages are paid by the hour, or upon the basis of a workweek of a minimum of five days or forty hours, whichever results in the higher weekly wage, if the wages are based on the output of the employee.

(3) Upon the death of an employee, resulting through personal injuries as defined in section 48-151, whether or not there are dependents entitled to compensation, the reasonable expenses of burial, not exceeding ten thousand

dollars, without deduction of any amount previously paid or to be paid for compensation or for medical expenses, shall be paid to his or her dependents, or if there are no dependents, then to his or her personal representative.

(4) Compensation under the Nebraska Workers' Compensation Act to alien dependents who are not residents of the United States shall be the same in amount as is provided in each case for residents, except that at any time within one year after the death of the injured employee the employer may at his or her option commute all future installments of compensation to be paid to such alien dependents. The amount of the commuted payment shall be determined as provided in section 48-138.

(5) The consul general, consul, vice consul general, or vice consul of the nation of which the employee, whose injury results in death, is a citizen, or the representative of such consul general, consul, vice consul general, or vice consul residing within the State of Nebraska shall be regarded as the sole legal representative of any alien dependents of the employee residing outside of the United States and representing the nationality of the employee. Such consular officer, or his or her representative, residing in the State of Nebraska, shall have in behalf of such nonresident dependents, the exclusive right to adjust and settle all claims for compensation provided by the Nebraska Workers' Compensation Act, and to receive the distribution to such nonresident alien dependents of all compensation arising thereunder.

Source: Laws 1913, c. 198, § 22, p. 588; R.S.1913, § 3663; Laws 1917, c. 85, § 8, p. 205; Laws 1919, c. 91, § 3, p. 232; C.S.1922, § 3045; C.S.1929, § 48-122; Laws 1935, c. 57, § 40, p. 209; C.S.Supp.,1941, § 48-122; R.S.1943, § 48-122; Laws 1945, c. 112, § 2, p. 361; Laws 1949, c. 160, § 2, p. 406; Laws 1951, c. 152, § 2, p. 620; Laws 1953, c. 162, § 2, p. 509; Laws 1955, c. 186, § 2, p. 530; Laws 1957, c. 203, § 2, p. 713; Laws 1957, c. 204, § 2, p. 719; Laws 1959, c. 223, § 2, p. 787; Laws 1963, c. 284, § 2, p. 850; Laws 1963, c. 285, § 2, p. 858; Laws 1965, c. 279, § 2, p. 803; Laws 1967, c. 288, § 2, p. 786; Laws 1969, c. 393, § 2, p. 1381; Laws 1971, LB 320, § 2; Laws 1973, LB 193, § 2; Laws 1974, LB 710, § 2; Laws 1975, LB 198, § 2; Laws 1977, LB 275, § 2; Laws 1978, LB 446, § 2; Laws 1979, LB 114, § 2; Laws 1981, LB 234, § 1; Laws 1983, LB 158, § 2; Laws 1985, LB 608, § 2; Laws 1986, LB 811, § 39; Laws 1997, LB 853, § 1; Laws 2012, LB738, § 1.

48-125 Compensation; method of payment; payment by prepaid card; agreement; disclosure of fees or charges; election to rescind agreement; delay; appeal; attorney's fees; interest.

(1) Except as hereinafter provided, all amounts of compensation payable under the Nebraska Workers' Compensation Act shall be payable periodically in accordance with the methods of payment of wages of the employee at the time of the injury or death or by a method of payment as provided in subsection (2) of this section. Such payments shall be sent directly to the person entitled to compensation or his or her designated representative except as otherwise provided in section 48-149 or subsection (2) of this section.

(2)(a) After an injury or death subject to the Nebraska Workers' Compensation Act, the employer, workers' compensation insurer, or risk management

pool and the employee, the other person entitled to compensation, or a legal representative acting on behalf of such employee or other person entitled to compensation may enter into a written or electronic agreement that periodic or lump-sum payments to the employee or other person entitled to compensation may be made by check or by direct deposit, prepaid card, or similar electronic payment system.

(b) Payments made by direct deposit, prepaid card, or similar electronic payment system pursuant to this subsection shall not be subject to attachment or garnishment or held liable in any way for any debts, except as provided in section 48-149; and an agreement pursuant to this subsection shall include notice of this fact. If an amount is withheld pursuant to section 48-149, sufficient information to identify the jurisdiction, the case number or similar identifying information, and the amount withheld shall be provided to the employee or other person entitled to compensation or his or her legal representative at or near the time of withholding.

(c) Prior to entering into an agreement pursuant to this subsection for payment by prepaid card, the employer, workers' compensation insurer, or risk management pool shall provide to the employee or other person entitled to compensation information regarding the locations where such card may be used by the employee or other person.

(d) Pursuant to an agreement under this subsection, compensation may be transferred by electronic funds transfer or other electronic means to the trust account of an attorney representing the employee or other person entitled to compensation, for the benefit of such employee or other person. The payment or transfer shall include or be accompanied by information sufficient to identify the nature of the payment being made, including the employer, workers' compensation insurer, or risk management pool and the employee or other person entitled to compensation.

(e) If an employer, workers' compensation insurer, or risk management pool imposes any fees or other charges relating to payment by direct deposit, prepaid card, or a similar electronic payment system, prior to entering into an agreement pursuant to this subsection the employer, workers' compensation insurer, or risk management pool shall disclose such fees or charges to the employee or other person entitled to compensation.

(f) Any payment or transfer made pursuant to this subsection by direct deposit, prepaid card, or similar electronic payment system shall be in the full amount of the lump-sum or periodic payment awarded or paid pursuant to section 48-121 to the employee or other person entitled to compensation.

(g) A prepaid card offered by the employer, workers' compensation insurer, or risk management pool shall:

(i) Allow the employee or other person entitled to compensation to apply, initiate, transfer, and load payments with no charge by the employer, workers' compensation insurer, or risk management pool;

(ii) For the initial prepaid card, be distributed or delivered to the employee or other person entitled to compensation with no charge by the employer, workers' compensation insurer, or risk management pool; and

(iii) Provide the employee or other person entitled to compensation, with respect to each payment made to the prepaid card in accordance with this subsection, at least one method of accessing the full payment without fees.

(h) An employee, another person entitled to compensation, or a legal representative acting on behalf of such employee or other person entitled to compensation may elect at any time to rescind the agreement under this subsection regarding the method of payment by providing written or electronic notice of such rescission to the employer, workers' compensation insurer, or risk management pool that is a party to such agreement. If such election is made, the employer, workers' compensation insurer, or risk management pool shall change the method of payment to the method of payment of wages of the employee at the time of the injury or death under subsection (1) of this section as soon as practicable after receiving the information necessary to do so and in a manner that allows the employer, workers' compensation insurer, or risk management pool to comply with the requirements of subsection (3) of this section without making a delinquent payment. The employer, workers' compensation insurer, or risk management pool is not required to rescind any payment transaction already made or made to comply with subsection (3) of this section.

(i) An employer, a workers' compensation insurer, or a risk management pool or an agent of any such entity shall not engage in unfair, deceptive, or abusive practices in relation to the method of payment. No employer, workers' compensation insurer, risk management pool, or agent of any such entity shall discharge, penalize, or in any other manner discriminate against any employee or other person entitled to compensation because such employee or other person has not consented to receive payments by check or by direct deposit, prepaid card, or a similar electronic payment system.

(j) An employer, workers' compensation insurer, or risk management pool that elects to make payment using a prepaid card shall comply with the requirements of 12 C.F.R. part 1005, as such part existed on April 1, 2018.

(3) Fifty percent shall be added for waiting time for all delinquent payments after thirty days' notice has been given of disability or after thirty days from the entry of a final order, award, or judgment of the Nebraska Workers' Compensation Court, except that for any award or judgment against the state in excess of one hundred thousand dollars which must be reviewed by the Legislature as provided in section 48-1,102, fifty percent shall be added for waiting time for delinquent payments thirty days after the effective date of the legislative bill appropriating any funds necessary to pay the portion of the award or judgment in excess of one hundred thousand dollars.

(4)(a) Whenever the employer refuses payment of compensation or medical payments subject to section 48-120, or when the employer neglects to pay compensation for thirty days after injury or neglects to pay medical payments subject to such section after thirty days' notice has been given of the obligation for medical payments, and proceedings are held before the compensation court, a reasonable attorney's fee shall be allowed the employee by the compensation court in all cases when the employee receives an award. Attorney's fees allowed shall not be deducted from the amounts ordered to be paid for medical services nor shall attorney's fees be charged to the medical providers.

(b) If the employer files an appeal from an award of a judge of the compensation court and fails to obtain any reduction in the amount of such award, the Court of Appeals or Supreme Court shall allow the employee a reasonable attorney's fee to be taxed as costs against the employer for such appeal.

(c) If the employee files an appeal from an order of a judge of the compensation court denying an award and obtains an award or if the employee files an appeal from an award of a judge of the compensation court when the amount of compensation due is disputed and obtains an increase in the amount of such award, the Court of Appeals or Supreme Court may allow the employee a reasonable attorney's fee to be taxed as costs against the employer for such appeal.

(d) A reasonable attorney's fee allowed pursuant to this subsection shall not affect or diminish the amount of the award.

(5) When an attorney's fee is allowed pursuant to this section, there shall further be assessed against the employer an amount of interest on the final award obtained, computed from the date compensation was payable, as provided in section 48-119, until the date payment is made by the employer. For any injury occurring prior to August 30, 2015, the interest rate shall be equal to the rate of interest allowed per annum under section 45-104.01, as such rate may from time to time be adjusted by the Legislature. For any injury occurring on or after August 30, 2015, the interest rate shall be equal to six percentage points above the bond investment yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the first auction of each annual quarter of the twenty-six-week United States Treasury bills in effect on the date of entry of the judgment. Interest shall apply only to those weekly compensation benefits awarded which have accrued as of the date payment is made by the employer. If the employer pays or tenders payment of compensation, the amount of compensation due is disputed, and the award obtained is greater than the amount paid or tendered by the employer, the assessment of interest shall be determined solely upon the difference between the amount awarded and the amount tendered or paid.

(6) For purposes of this section:

(a) Direct deposit means the transfer of payments into an account of a financial institution chosen by the employee or other person entitled to compensation; and

(b) Prepaid card means a prepaid debit card that provides access to an account with a financial institution established directly or indirectly by the employer, workers' compensation insurer, or risk management pool to which payments are transferred.

Source: Laws 1913, c. 198, § 25, p. 591; R.S.1913, § 3666; Laws 1917, c. 85, § 9 1/2, p. 208; Laws 1919, c. 91, § 4, p. 234; C.S.1922, § 3048; C.S.1929, § 48-125; Laws 1935, c. 57, § 20, p. 197; C.S.Supp.,1941, § 48-125; R.S.1943, § 48-125; Laws 1973, LB 169, § 1; Laws 1975, LB 187, § 2; Laws 1983, LB 18, § 1; Laws 1986, LB 811, § 43; Laws 1991, LB 732, § 110; Laws 1992, LB 360, § 14; Laws 1999, LB 216, § 6; Laws 2005, LB 13, § 5; Laws 2005, LB 238, § 4; Laws 2009, LB630, § 3; Laws 2011, LB151, § 1; Laws 2015, LB480, § 3; Laws 2018, LB957, § 1.
Effective date July 19, 2018.

48-126.01 Wages or compensation rate; basis of computation.

(1)(a) In determining the compensation to be paid any member of the military forces of this state, any member of a law enforcement reserve force, or any member of the Nebraska Emergency Management Agency, any city, village,

county, or interjurisdictional emergency management organization, or any state emergency response team, which military forces, law enforcement reserve force, or emergency management agency, organization, or team is organized under the laws of the State of Nebraska, or any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277, for injuries resulting in disability or death received in the performance of his or her duties as a member of such military forces, reserve force, agency, organization, or team, or pursuant to an order of any court, the wages of such a member or person shall be taken to be those received by him or her from his or her regular employer, and he or she shall receive such proportion thereof as he or she is entitled to under the provisions of section 48-121.

(b) If a member or person under subdivision (1)(a) of this section is not regularly employed by some other person, for the purpose of such determination, it shall be deemed and assumed that he or she is receiving income from his or her business or from other employment equivalent to wages in an amount one and one-half times the maximum weekly income benefit specified in section 48-121.01.

(c) If the wages received for the performance of duties as a member of such military forces, reserve force, agency, organization, or team exceed the wages received from a regular employer, such member shall be entitled to a rate of compensation based upon wages received as a member of such military forces, reserve force, agency, organization, or team.

(2) In determining the compensation rate to be paid any member of a volunteer fire department in any rural or suburban fire protection district, city, village, or nonprofit corporation or any member of a volunteer emergency medical service, which fire department or emergency medical service is organized under the laws of the State of Nebraska, for injuries resulting in disability or death received in the performance of his or her duties as a member of such fire department or emergency medical service, it shall be deemed and assumed that his or her wages are in an amount one and one-half times the maximum weekly income benefit specified in section 48-121.01 or the wages received by such member from his or her regular employment, whichever is greater. Any member of such volunteer fire department or volunteer emergency medical service shall not lose his or her volunteer status under the Nebraska Workers' Compensation Act if such volunteer receives reimbursement for expenses, reasonable benefits, or a nominal fee, a nominal per call fee, a nominal per shift fee, or combination thereof. It shall be conclusively presumed that a fee is nominal if the fee does not exceed twenty percent of the amount that otherwise would be required to hire a permanent employee for the same services.

Source: Laws 1913, c. 198, § 26, p. 592; R.S.1913, § 3667; Laws 1917, c. 85, § 10, p. 208; C.S.1922, § 3049; Laws 1927, c. 39, § 2, p. 171; C.S.1929, § 48-126; Laws 1935, c. 57, § 39, p. 208; C.S.Supp.,1941, § 48-126; R.S.1943, § 48-126; Laws 1953, c. 163, § 1(2), p. 513; Laws 1955, c. 186, § 3, p. 532; Laws 1959, c. 224, § 1, p. 790; Laws 1961, c. 233, § 2, p. 691; Laws 1967, c. 289, § 2, p. 790; Laws 1969, c. 394, § 1, p. 1384; Laws 1973, LB 239,

§ 3; Laws 1973, LB 25, § 2; Laws 1976, LB 782, § 15; Laws 1986, LB 528, § 7; Laws 1996, LB 43, § 9; Laws 1997, LB 138, § 39; Laws 1999, LB 216, § 7; Laws 2014, LB961, § 10.

(e) SETTLEMENT AND PAYMENT OF COMPENSATION

48-139 Compensation; lump-sum settlement; submitted to Nebraska Workers' Compensation Court; procedure; filing of release; form; contents; payment; fees.

(1)(a) Whenever an injured employee or his or her dependents and the employer agree that the amounts of compensation due as periodic payments for death, permanent disability, or claimed permanent disability under the Nebraska Workers' Compensation Act shall be commuted to one or more lump-sum payments, such settlement shall be submitted to the Nebraska Workers' Compensation Court for approval as provided in subsection (2) of this section if:

(i) The employee is not represented by counsel;

(ii) The employee, at the time the settlement is executed, is eligible for medicare, is a medicare beneficiary, or has a reasonable expectation of becoming eligible for medicare within thirty months after the date the settlement is executed;

(iii) Medical, surgical, or hospital expenses incurred for treatment of the injury have been paid by medicaid and medicaid will not be reimbursed as part of the settlement;

(iv) Medical, surgical, or hospital expenses incurred for treatment of the injury will not be fully paid as part of the settlement; or

(v) The settlement seeks to commute amounts of compensation due to dependents of the employee.

(b) If such lump-sum settlement is not required to be submitted for approval by the compensation court, a release shall be filed with the compensation court as provided in subsection (3) of this section. Nothing in this section shall be construed to increase the compensation court's duties or authority with respect to the approval of lump-sum settlements under the act.

(2)(a) An application for an order approving a lump-sum settlement, signed and verified by both parties, shall be filed with the clerk of the compensation court and shall be entitled the same as an action by such employee or dependents against such employer. The application shall contain a concise statement of the terms of the settlement or agreement sought to be approved with a brief statement of the facts concerning the injury, the nature thereof, the wages received by the injured employee prior thereto, the nature of the employment, a description of the medical, surgical, or hospital expenses incurred for treatment of the injury that will remain unpaid as part of the settlement which are disputed and for which compensability has been denied by the employer, and such other matters as may be reasonably required by the compensation court. The application shall also include a statement that the parties have considered the interests of medicare and have taken reasonable steps to protect any interests of medicare. The application may provide for payment of future medical, surgical, or hospital expenses incurred by the employee. The compensation court may, on its own motion, and shall, on a motion by one of the parties, hold a hearing on the application at a time and

place selected by the compensation court, and proof may be adduced and witnesses subpoenaed and examined the same as in an action in equity.

(b)(i) If the compensation court finds such lump-sum settlement is made in conformity with the compensation schedule and for the best interests of the employee or his or her dependents under all the circumstances, the compensation court shall make an order approving the same.

(ii) If the expenses for medical, surgical, or hospital services provided to the employee are not paid by the employer, or if any person, other than medicaid, who has made any payment to the supplier of medical, surgical, or hospital services provided to the employee, is not reimbursed by the employer, it shall be conclusively presumed that the nonpayment or nonreimbursement of disputed medical, surgical, or hospital expenses, as set forth in the application, is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents, if the employee's attorney elects to affirm and does affirm in the application that the nonpayment or nonreimbursement of disputed medical, surgical, or hospital expenses is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents under all the circumstances.

(iii) If the employee, at the time the settlement is executed, is eligible for medicare, is a medicare beneficiary, or has a reasonable expectation of becoming eligible for medicare within thirty months after the date the settlement is executed, and if the employee's attorney elects to affirm and does affirm in the application that the parties' agreement relating to consideration of medicare's interests set forth in such lump-sum settlement is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents under all the circumstances, it shall be conclusively presumed that the parties' agreement relating to consideration of medicare's interests set forth in the application is in conformity with the compensation schedule and for the best interests of the employee or his or her dependents.

(iv) If such settlement is not approved, the compensation court may dismiss the application at the cost of the employer or continue the hearing, in the discretion of the compensation court.

(c) Every such lump-sum settlement approved by order of the compensation court shall be final and conclusive unless procured by fraud. An order approving an application under this subsection shall, in any case in which the employee is represented by counsel and in which the application contains a description of the medical, surgical, or hospital expenses incurred for treatment of the injury that will remain unpaid as part of the settlement which are disputed and for which compensability has been denied by the employer, provide that the employer is not liable for such expenses. Upon paying the amount approved by the compensation court, the employer shall be discharged from further liability on account of the injury or death, other than liability for the payment of future medical, surgical, or hospital expenses if such liability is approved by the compensation court on the application of the parties.

(d) An exclusion from coverage in any health, accident, or other insurance policy covering an employee which provides that coverage under such insurance policy does not apply if such employee is entitled to workers' compensation coverage is void as to such employee if his or her employer is not liable for medical, surgical, or hospital expenses incurred for treatment of an injury that

will remain unpaid as part of the settlement pursuant to an order entered under subdivision (2)(c) of this section.

(3) If such lump-sum settlement is not required to be submitted for approval by the compensation court, a release shall be filed with the compensation court in accordance with this subsection that is signed and verified by the employee and the employee's attorney. The release shall be made on a form approved by the compensation court and shall contain a statement signed and verified by the employee that:

(a) The employee understands and waives all rights under the Nebraska Workers' Compensation Act, including, but not limited to:

(i) The right to receive weekly disability benefits, both temporary and permanent;

(ii) The right to receive vocational rehabilitation services;

(iii) The right to receive future medical, surgical, and hospital services as provided in section 48-120, unless such services are specifically excluded from the release; and

(iv) The right to ask a judge of the compensation court to decide the parties' rights and obligations;

(b) The employee is not eligible for medicare, is not a current medicare beneficiary, and does not have a reasonable expectation of becoming eligible for medicare within thirty months after the date the settlement is executed;

(c) There are no medical, surgical, or hospital expenses incurred for treatment of the injury which have been paid by medicaid and not reimbursed to medicaid by the employer as part of the settlement; and

(d) There are no medical, surgical, or hospital expenses incurred for treatment of the injury that will remain unpaid after the settlement.

(4) Upon the entry of an order of dismissal with prejudice, a release filed with the compensation court in accordance with subsection (3) of this section shall be final and conclusive as to all rights waived in the release unless procured by fraud. Amounts to be paid by the employer to the employee pursuant to such release shall be paid within thirty days of filing the release with the compensation court. Fifty percent shall be added for payments owed to the employee if made after thirty days after the date the release is filed with the compensation court. Upon making payment owed by the employer as set forth in the release and upon the entry of an order of dismissal with prejudice, as to all rights waived in the release, such release shall be a full and complete discharge from further liability for the employer on account of the injury, including future medical, surgical, or hospital expenses, unless such expenses are specifically excluded from the release.

(5) The fees of the clerk of the compensation court for filing, docketing, and indexing an application for an order approving a lump-sum settlement or filing a release as provided in this section shall be fifteen dollars. The fees shall be remitted by the clerk to the State Treasurer for credit to the Compensation Court Cash Fund.

Source: Laws 1917, c. 85, § 16, p. 212; Laws 1921, c. 122, § 1, p. 526; C.S.1922, § 3063; C.S.1929, § 48-140; Laws 1935, c. 57, § 25, p. 199; C.S.Supp.,1941, § 48-140; R.S.1943, § 48-139; Laws 1951, c. 153, § 1, p. 623; Laws 1975, LB 187, § 4; Laws 1977, LB 126, § 3; Laws 1978, LB 649, § 3; Laws 1986, LB 811, § 57; Laws

1993, LB 757, § 10; Laws 2002, LB 417, § 3; Laws 2009, LB630, § 6; Laws 2014, LB961, § 11; Laws 2018, LB953, § 1.
Effective date July 19, 2018.

48-145 Employers; compensation insurance required; exceptions; effect of failure to comply; self-insurer; payments required; deposit with State Treasurer; credited to General Fund.

To secure the payment of compensation under the Nebraska Workers' Compensation Act:

(1) Every employer in the occupations described in section 48-106, except the State of Nebraska and any governmental agency created by the state, shall either (a) insure and keep insured its liability under such act in some corporation, association, or organization authorized and licensed to transact the business of workers' compensation insurance in this state, (b) in the case of an employer who is a lessor of one or more commercial vehicles leased to a self-insured motor carrier, be a party to an effective agreement with the self-insured motor carrier under section 48-115.02, (c) be a member of a risk management pool authorized and providing group self-insurance of workers' compensation liability pursuant to the Intergovernmental Risk Management Act, or (d) with approval of the Nebraska Workers' Compensation Court, self-insure its workers' compensation liability.

An employer seeking approval to self-insure shall make application to the compensation court in the form and manner as the compensation court may prescribe, meet such minimum standards as the compensation court shall adopt and promulgate by rule and regulation, and furnish to the compensation court satisfactory proof of financial ability to pay direct the compensation in the amount and manner when due as provided for in the Nebraska Workers' Compensation Act. Approval is valid for the period prescribed by the compensation court unless earlier revoked pursuant to this subdivision or subsection (1) of section 48-146.02. Notwithstanding subdivision (1)(d) of this section, a professional employer organization shall not be eligible to self-insure its workers' compensation liability. The compensation court may by rule and regulation require the deposit of an acceptable security, indemnity, trust, or bond to secure the payment of compensation liabilities as they are incurred. The agreement or document creating a trust for use under this section shall contain a provision that the trust may only be terminated upon the consent and approval of the compensation court. Any beneficial interest in the trust principal shall be only for the benefit of the past or present employees of the self-insurer and any persons to whom the self-insurer has agreed to pay benefits under subdivision (11) of section 48-115 and section 48-115.02. Any limitation on the termination of a trust and all other restrictions on the ownership or transfer of beneficial interest in the trust assets contained in such agreement or document creating the trust shall be enforceable, except that any limitation or restriction shall be enforceable only if authorized and approved by the compensation court and specifically delineated in the agreement or document. The trustee of any trust created to satisfy the requirements of this section may invest the trust assets in the same manner authorized under subdivisions (1)(a) through (i) of section 30-3209 for corporate trustees holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, or governmental or political subdivisions, except that the trustee shall not invest trust assets into stocks, bonds, or other obligations of

the trustor. If, as a result of such investments, the value of the trust assets is reduced below the acceptable trust amount required by the compensation court, then the trustor shall deposit additional trust assets to account for the shortfall.

Notwithstanding any other provision of the Nebraska Workers' Compensation Act, a three-judge panel of the compensation court may, after notice and hearing, revoke approval as a self-insurer if it finds that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The Attorney General, when requested by the administrator of the compensation court, may file a motion pursuant to section 48-162.03 for an order directing a self-insurer to appear before a three-judge panel of the compensation court and show cause as to why the panel should not revoke approval as a self-insurer pursuant to this subdivision. The Attorney General shall be considered a party for purposes of such motion. The Attorney General may appear before the three-judge panel and present evidence that the financial condition of the self-insurer or the failure of the self-insurer to comply with an obligation under the act poses a serious threat to the public health, safety, or welfare. The presiding judge shall rule on a motion of the Attorney General pursuant to this subdivision and, if applicable, shall appoint judges of the compensation court to serve on the three-judge panel. The presiding judge shall not serve on such panel. Appeal from a revocation pursuant to this subdivision shall be in accordance with section 48-185. No such appeal shall operate as a supersedeas unless the self-insurer executes to the compensation court a bond with one or more sureties authorized to do business within the State of Nebraska in an amount determined by the three-judge panel to be sufficient to satisfy the obligations of the self-insurer under the act;

(2) An approved self-insurer shall furnish to the State Treasurer an annual amount equal to two and one-half percent of the prospective loss costs for like employment but in no event less than twenty-five dollars. Prospective loss costs is defined in section 48-151. The compensation court is the sole judge as to the prospective loss costs that shall be used. All money which a self-insurer is required to pay to the State Treasurer, under this subdivision, shall be computed and tabulated under oath as of January 1 and paid to the State Treasurer immediately thereafter. The compensation court or designee of the compensation court may audit the payroll of a self-insurer at the compensation court's discretion. All money paid by a self-insurer under this subdivision shall be credited to the General Fund;

(3) Every employer who fails, neglects, or refuses to comply with the conditions set forth in subdivision (1) or (2) of this section shall be required to respond in damages to an employee for personal injuries, or when personal injuries result in the death of an employee, then to his or her dependents; and

(4) Any security, indemnity, trust, or bond provided by a self-insurer pursuant to subdivision (1) of this section shall be deemed a surety for the purposes of the payment of valid claims of the self-insurer's employees and the persons to whom the self-insurer has agreed to pay benefits under the Nebraska Workers' Compensation Act pursuant to subdivision (11) of section 48-115 and section 48-115.02 as generally provided in the act.

Source: Laws 1913, c. 198, § 46, p. 599; R.S.1913, § 3687; Laws 1917, c. 85, § 21, p. 215; Laws 1921, c. 122, § 1, p. 528; C.S.1922,

§ 3069; C.S.1929, § 48-146; Laws 1935, c. 57, § 31, p. 202; C.S.Supp.,1941, § 48-146; R.S.1943, § 48-145; Laws 1957, c. 205, § 1, p. 723; Laws 1963, c. 286, § 1, p. 860; Laws 1971, LB 572, § 8; Laws 1986, LB 811, § 67; Laws 1988, LB 1146, § 1; Laws 1997, LB 474, § 4; Laws 1999, LB 216, § 9; Laws 2000, LB 1221, § 8; Laws 2005, LB 13, § 8; Laws 2005, LB 238, § 10; Laws 2010, LB579, § 16; Laws 2015, LB480, § 4.

Cross References

Intergovernmental Risk Management Act, see section 44-4301.

48-145.01 Employers; compensation required; penalty for failure to comply; injunction; Attorney General; duties.

(1) Any employer required to secure the payment of compensation under the Nebraska Workers' Compensation Act who willfully fails to secure the payment of such compensation shall be guilty of a Class I misdemeanor. If the employer is a corporation, limited liability company, or limited liability partnership, any officer, member, manager, partner, or employee who had authority to secure payment of compensation on behalf of the employer and willfully failed to do so shall be individually guilty of a Class I misdemeanor and shall be personally liable jointly and severally with such employer for any compensation which may accrue under the act in respect to any injury which may occur to any employee of such employer while it so fails to secure the payment of compensation as required by section 48-145.

(2) If an employer subject to the Nebraska Workers' Compensation Act fails to secure the payment of compensation as required by section 48-145, the employer may be enjoined from doing business in this state until the employer complies with subdivision (1) of section 48-145. If a temporary injunction is granted at the request of the State of Nebraska, no bond shall be required to make the injunction effective. The Nebraska Workers' Compensation Court or the district court may order an employer who willfully fails to secure the payment of compensation to pay a monetary penalty of not more than one thousand dollars for each violation. For purposes of this subsection, each day of continued failure to secure the payment of compensation as required by section 48-145 constitutes a separate violation. If the employer is a corporation, limited liability company, or limited liability partnership, any officer, member, manager, partner, or employee who had authority to secure payment of compensation on behalf of the employer and willfully failed to do so shall be personally liable jointly and severally with the employer for such monetary penalty. All penalties collected pursuant to this subsection shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(3) It shall be the duty of the Attorney General to act as attorney for the State of Nebraska for purposes of this section. The Attorney General may file a motion pursuant to section 48-162.03 for an order directing an employer to appear before a judge of the compensation court and show cause as to why a monetary penalty should not be assessed against the employer pursuant to subsection (2) of this section. The Attorney General shall be considered a party for purposes of such motion. The Attorney General may appear before the compensation court and present evidence of a violation or violations pursuant to subsection (2) of this section and the identity of the person who had authority

to secure the payment of compensation. Appeal from an order of a judge of the compensation court pursuant to subsection (2) of this section shall be in accordance with sections 48-182 and 48-185.

Source: Laws 1971, LB 572, § 18; Laws 1977, LB 40, § 272; Laws 1986, LB 811, § 68; Laws 1993, LB 121, § 283; Laws 1999, LB 331, § 1; Laws 2005, LB 13, § 9; Laws 2011, LB151, § 2.

PART III—MISCELLANEOUS PROVISIONS

48-148.01 Denial of compensation; false representation.

No compensation shall be allowed if, at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment: (1) The employee knowingly and willfully made a false representation as to his or her physical or medical condition by acknowledging in writing that he or she is able to perform the essential functions of the job with or without reasonable accommodation based upon the employer's written job description; (2) the employer relied upon the false representation and the reliance was a substantial factor in the hiring; and (3) a causal connection existed between the false representation and the injury.

Source: Laws 2015, LB480, § 1.

PART IV—NEBRASKA WORKERS' COMPENSATION COURT

48-153 Judges; number; term; qualifications; continuance in office; prohibition on holding other office or pursuing other occupation.

The Nebraska Workers' Compensation Court shall consist of seven judges. Judges holding office on August 30, 1981, shall continue in office until expiration of their respective terms of office and thereafter for an additional term which shall expire on the first Thursday after the first Tuesday in January immediately following the first general election at which they are retained in office after August 30, 1981. Judge of the Nebraska Workers' Compensation Court shall include any person appointed to the office of judge of the Nebraska Workmen's Compensation Court prior to July 17, 1986, pursuant to Article V, section 21, of the Nebraska Constitution. Any person serving as a judge of the Nebraska Workmen's Compensation Court immediately prior to July 17, 1986, shall be a judge of the Nebraska Workers' Compensation Court. The right of judges of the compensation court to continue in office shall be determined in the manner provided in sections 24-813 to 24-818, and the terms of office thereafter shall be for six years beginning on the first Thursday after the first Tuesday in January immediately following their retention at such election. In case of a vacancy occurring in the Nebraska Workers' Compensation Court, the same shall be filled in accordance with the provisions of Article V, section 21, of the Nebraska Constitution and the right of any judge so appointed to continue in office shall be determined in the manner provided in sections 24-813 to 24-818. All such judges shall hold office until their successors are appointed and qualified, or until death, voluntary resignation, or removal for cause. No judge of the compensation court shall, during his or her tenure in office as judge, hold any other office or position of profit, pursue any other business or avocation inconsistent or which interferes with his or her duties as such judge, or serve on or under any committee of any political party.

Source: Laws 1935, c. 57, § 2, p. 188; C.S.Supp.,1941, § 48-163; R.S. 1943, § 48-153; Laws 1945, c. 113, § 1, p. 363; Laws 1963, c.

288, § 1, p. 865; Laws 1965, c. 280, § 2, p. 806; Laws 1967, c. 292, § 2, p. 798; Laws 1975, LB 187, § 10; Laws 1978, LB 649, § 4; Laws 1979, LB 237, § 5; Laws 1981, LB 111, § 4; Laws 1983, LB 18, § 3; Laws 1986, LB 811, § 81; Laws 1988, LB 868, § 2; Laws 2011, LB151, § 3.

48-155 Presiding judge; how chosen; term; powers and duties; acting presiding judge; selection; powers.

The judges of the Nebraska Workers' Compensation Court shall, on July 1 of every odd-numbered year by a majority vote, select one of their number as presiding judge for the next two years, subject to approval of the Supreme Court. The presiding judge may designate one of the other judges to act as presiding judge in his or her stead whenever necessary during the disqualification, disability, or absence of the presiding judge. The presiding judge shall rule on all matters submitted to the compensation court except those arising in the course of hearings or as otherwise provided by law, assign or direct the assignment of the work of the compensation court to the several judges, clerk, and employees who support the judicial proceedings of the compensation court, preside at such meetings of the judges of the compensation court as may be necessary, and perform such other supervisory duties as the needs of the compensation court may require. During the disqualification, disability, or absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

Source: Laws 1935, c. 57, § 4, p. 189; C.S.Supp.,1941, § 48-165; R.S. 1943, § 48-155; Laws 1945, c. 113, § 2, p. 364; Laws 1959, c. 225, § 1, p. 791; Laws 1969, c. 396, § 1, p. 1386; Laws 1986, LB 811, § 84; Laws 1992, LB 360, § 15; Laws 2000, LB 1221, § 10; Laws 2005, LB 13, § 14; Laws 2011, LB151, § 4.

48-156 Judges; quorum; powers.

A majority of the judges of the Nebraska Workers' Compensation Court shall constitute a quorum to adopt rules and regulations, as provided in sections 48-163 and 48-164, to transact business, except when the statute or a rule adopted by the compensation court permits one judge thereof to act. The act or decision of a majority of the judges constituting such quorum shall in all such cases be deemed the act or decision of the compensation court, except that a majority vote of all the judges shall be required to adopt rules and regulations.

Source: Laws 1935, c. 57, § 5, p. 190; C.S.Supp.,1941, § 48-166; R.S. 1943, § 48-156; Laws 1945, c. 113, § 3, p. 364; Laws 1965, c. 280, § 3, p. 807; Laws 1983, LB 18, § 4; Laws 1986, LB 811, § 86; Laws 1992, LB 360, § 16; Laws 1999, LB 216, § 13; Laws 2011, LB151, § 5.

48-162.03 Compensation court; motions; powers.

(1) The Nebraska Workers' Compensation Court or any judge thereof may rule upon any motion addressed to the court by any party to a suit or proceeding, including, but not limited to, motions for summary judgment or other motions for judgment on the pleadings but not including motions for new trial. Several objects may be included in the same motion, if they all grow out of or are connected with the action or proceeding in which it is made.

(2) Parties to a dispute which might be the subject of an action under the Nebraska Workers' Compensation Act may file a motion for an order regarding the dispute without first filing a petition.

(3) If notice of a motion is required, the notice shall be in writing and shall state: (a) The names of the parties to the action, proceeding, or dispute in which it is to be made; (b) the name of the judge before whom it is to be made; (c) the time and place of hearing; and (d) the nature and terms of the order or orders to be applied for. Notice shall be served a reasonable time before the hearing as provided in the rules of the compensation court.

Source: Laws 1997, LB 128, § 5; Laws 2013, LB141, § 1.

48-166 Compensation court; annual report; contents.

On or before January 1 of each year, the Nebraska Workers' Compensation Court shall submit electronically an annual report to the Clerk of the Legislature for the past fiscal year which shall include (1) pertinent information regarding settlements and awards made by the compensation court, (2) the causes of the accidents leading to the injuries for which the settlements and awards were made, (3) a statement of the total expense of the compensation court, (4) any other matters which the compensation court deems proper to include, and (5) any recommendations it may desire to make.

Source: Laws 1917, c. 85, § 29, p. 221; C.S.1922, § 3080; C.S.1929, § 48-157; Laws 1935, c. 57, § 36, p. 206; C.S.Supp.,1941, § 48-157; R.S.1943, § 48-166; Laws 1945, c. 113, § 6, p. 366; Laws 1955, c. 231, § 7, p. 720; Laws 1986, LB 811, § 99; Laws 1999, LB 216, § 16; Laws 2013, LB222, § 16.

48-167 Compensation court; record.

The Nebraska Workers' Compensation Court shall keep and maintain a full and true record of all proceedings, documents, or papers ordered filed, rules and regulations, and decisions or orders.

Source: Laws 1917, c. 85, § 29, p. 221; C.S.1922, § 3080; C.S.1929, § 48-157; Laws 1935, c. 57, § 36, p. 205; C.S.Supp.,1941, § 48-157; R.S.1943, § 48-167; Laws 1945, c. 113, § 7, p. 366; Laws 1986, LB 811, § 100; Laws 2011, LB151, § 6.

48-170 Compensation court; orders; awards; when binding.

Every order and award of the Nebraska Workers' Compensation Court shall be binding upon each party at interest unless an appeal has been filed with the compensation court within thirty days after the date of entry of the order or award.

Source: Laws 1917, c. 85, § 29, p. 222; C.S.1922, § 3080; C.S.1929, § 48-157; Laws 1935, c. 57, § 36, p. 206; C.S.Supp.,1941, § 48-157; R.S.1943, § 48-170; Laws 1967, c. 294, § 1, p. 800; Laws 1975, LB 187, § 12; Laws 1986, LB 811, § 103; Laws 1992, LB 360, § 19; Laws 1999, LB 43, § 24; Laws 2011, LB151, § 7.

48-175.01 Nonresident employer; service of process; manner of service; continuance; record.

(1)(a) The performance of work in the State of Nebraska (i) by an employer, who is a nonresident of the State of Nebraska, (ii) by any resident employer who becomes a nonresident of this state after the occurrence of an injury to an employee, or (iii) by any agent of such an employer shall be deemed an appointment by such employer of the clerk of the Nebraska Workers' Compensation Court as a true and lawful attorney and agent upon whom may be served all legal processes in any action or proceeding against him or her, arising out of or under the provisions of the Nebraska Workers' Compensation Act, and such performance of work shall be a signification of the employer's agreement that any such process, which is so served in any action against him or her, shall be of the same legal force and validity as if served upon him or her personally within this state. The appointment of agent, thus made, shall not be revocable by death but shall continue and be binding upon the executor or administrator of such employer.

(b) For purposes of this section, performance of work shall include, but not be limited to, situations in which (i) the injury or injury resulting in death occurred within this state, (ii) the employment was principally localized within this state, or (iii) the contract of hire was made within this state.

(2) Service of such process, as referred to in subsection (1) of this section, shall be made by serving a copy thereof upon the clerk of the Nebraska Workers' Compensation Court, personally in his or her office or upon someone who, previous to such service, has been designated in writing by the clerk of the Nebraska Workers' Compensation Court as the person or one of the persons with whom such copy may be left for such service upon the clerk of the Nebraska Workers' Compensation Court, and such service shall be sufficient service upon the employer. In making such service, a copy of the petition and a copy of the process shall, within ten days after the date of service, be sent by the clerk of the Nebraska Workers' Compensation Court, or such person acting for him or her in his or her office, to the defendant by registered or certified mail addressed to the defendant's last-known address, and the defendant's return receipt and affidavit of the clerk of the Nebraska Workers' Compensation Court, or such person in his or her office acting for him or her, of compliance therewith shall be appended to such petition and filed in the office of the clerk of the Nebraska Workers' Compensation Court. The date of the mailing and the date of the receipt of the return card aforesaid shall be properly endorsed on such petition and filed by the clerk of the Nebraska Workers' Compensation Court, or someone acting for him or her.

(3) The Nebraska Workers' Compensation Court shall, on its own motion, order such continuance of answer day and trial date, as may to the compensation court seem necessary to afford the defendant reasonable opportunity to plead and to defend. No such continuance shall be for more than ninety days except for good cause shown.

(4) It shall be the duty of the clerk of the Nebraska Workers' Compensation Court to keep a record of all processes so served, in accordance with subsections (1) and (2) of this section, which record shall show the date of such service, and to so arrange and index such record as to make the same readily accessible and convenient for inspection.

Source: Laws 1957, c. 202, § 2, p. 708; Laws 1973, LB 150, § 2; Laws 1986, LB 811, § 108; Laws 2011, LB151, § 8.

48-177 Hearing; judge; place; dismissal; procedure; manner of conducting hearings.

(1) At the time a petition or motion is filed, one of the judges of the Nebraska Workers' Compensation Court shall be assigned to hear the cause. It shall be heard in the county in which the accident occurred, except as otherwise provided in section 25-412.02 and except that, upon the written stipulation of the parties, filed with the compensation court at least fourteen days before the date of hearing, the cause may be heard in any other county in the state.

(2) Any such cause may be dismissed without prejudice to a future action (a) by the plaintiff, if represented by legal counsel, before the final submission of the case to the compensation court or (b) by the compensation court upon a stipulation of the parties that a dispute between the parties no longer exists.

(3) Notwithstanding subsection (1) of this section, all nonevidentiary hearings, and any evidentiary hearings approved by the compensation court and by stipulation of the parties, may be heard by the court telephonically or by videoconferencing or similar equipment at any location within the state as ordered by the court and in a manner that ensures the preservation of an accurate record. Hearings conducted in this manner shall be consistent with the public's access to the courts.

Source: Laws 1935, c. 57, §§ 13, 15, pp. 193, 195; C.S.Supp.,1941, §§ 48-174, 48-176; R.S.1943, § 48-177; Laws 1945, c. 113, § 8, p. 366; Laws 1949, c. 161, § 5, p. 413; Laws 1975, LB 97, § 8; Laws 1978, LB 649, § 8; Laws 1986, LB 811, § 109; Laws 1997, LB 128, § 6; Laws 2005, LB 13, § 29; Laws 2011, LB151, § 9.

48-178 Hearing; judgment; when conclusive; record of proceedings; costs; payment.

The judge shall make such findings and orders, awards, or judgments as the Nebraska Workers' Compensation Court or judge is authorized by law to make. Such findings, orders, awards, and judgments shall be signed by the judge before whom such proceedings were had. When proceedings are had before a judge of the compensation court, his or her findings, orders, awards, and judgments shall be conclusive upon all parties at interest unless reversed or modified upon appeal as hereinafter provided. A shorthand record or tape recording shall be made of all testimony and evidence submitted in such proceedings. The compensation court or judge thereof, at the party's expense, may appoint a court reporter or may direct a party to furnish a court reporter to be present and report or, by adequate mechanical means, to record and, if necessary, transcribe proceedings of any hearing. The charges for attendance shall be paid initially to the reporter by the employer or, if insured, by the employer's workers' compensation insurer. The charges shall be taxed as costs and the party initially paying the expense shall be reimbursed by the party or parties taxed with the costs. The compensation court or judge thereof may award and tax such costs and apportion the same between the parties or may order the compensation court to pay such costs as in its discretion it may think right and equitable. If the expense is unpaid, the expense shall be paid by the party or parties taxed with the costs or may be paid by the compensation court. The reporter shall faithfully and accurately report or record the proceedings.

Source: Laws 1935, c. 57, § 13, p. 193; C.S.Supp.,1941, § 48-174; R.S. 1943, § 48-178; Laws 1945, c. 113, § 9, p. 367; Laws 1986, LB 811, § 110; Laws 1992, LB 360, § 20; Laws 2005, LB 238, § 14; Laws 2011, LB151, § 10.

48-179 Repealed. Laws 2011, LB 151, § 20.**48-180 Findings, order, award, or judgment; modification; effect.**

The Nebraska Workers' Compensation Court may, on its own motion or on the motion of any party, modify or change its findings, order, award, or judgment at any time before appeal and within fourteen days after the date of such findings, order, award, or judgment. The time for appeal shall not be lengthened because of the modification or change unless the correction substantially changes the result of the award.

Source: Laws 1935, c. 57, § 13, p. 193; C.S.Supp.,1941, § 48-174; R.S. 1943, § 48-180; Laws 1986, LB 811, § 113; Laws 1992, LB 360, § 22; Laws 2011, LB151, § 11.

48-181 Repealed. Laws 2011, LB 7, § 1.**48-182 Notice of appeal; bill of exceptions; requirements; waiver of payment; when; extension of time; filing of order.**

In case either party at interest refuses to accept any final order of the Nebraska Workers' Compensation Court, such party may, within thirty days thereafter, file with the compensation court a notice of appeal and at the same time the notice of appeal is filed, file with the compensation court a praecipe for a bill of exceptions. Within seven weeks from the date the notice of appeal is filed, the court reporter or transcriber shall deliver to the clerk of the Nebraska Workers' Compensation Court a bill of exceptions which shall include a transcribed copy of the testimony and the evidence taken before the compensation court at the hearing, which transcribed copy when certified to by the person who made or transcribed the record shall constitute the bill of exceptions. The transcript and bill of exceptions shall be paid for by the party ordering the same, except that upon the affidavit of any claimant for workers' compensation, filed with or before the praecipe, that he or she is without means with which to pay and unable to secure such means, payment may, in the discretion of the compensation court, be waived as to such claimant and the bill of exceptions shall be paid for by the compensation court in the same manner as other compensation court expenses.

The procedure for preparation, settlement, signature, allowance, certification, filing, and amendment of a bill of exceptions shall be regulated and governed by rules of practice prescribed by the Supreme Court except as otherwise provided in this section.

When a bill of exceptions has been ordered according to law and the court reporter or transcriber fails to prepare and file the bill of exceptions with the clerk of the Nebraska Workers' Compensation Court within seven weeks from the date the notice of appeal is filed, the Supreme Court may, on the motion of any party accompanied by a proper showing, grant additional time for the preparation and filing of the bill of exceptions under such conditions as the court may require. Applications for such an extension of time shall be regulated and governed by rules of practice prescribed by the Supreme Court. A copy of such order granting an extension of time shall be filed with the Nebraska Workers' Compensation Court by the party requesting such extension within five days after the date of such order.

Source: Laws 1935, c. 57, §§ 13, 15, pp. 194, 195; C.S.Supp.,1941, §§ 48-174, 48-176; R.S.1943, § 48-182; Laws 1967, c. 294, § 2,

p. 801; Laws 1971, LB 252, § 1; Laws 1973, LB 192, § 1; Laws 1975, LB 187, § 13; Laws 1986, LB 811, § 114; Laws 1986, LB 529, § 51; Laws 1991, LB 732, § 111; Laws 1992, LB 360, § 23; Laws 2011, LB151, § 12; Laws 2013, LB141, § 2.

48-185 Appeal; procedure; judgment by Nebraska Workers' Compensation Court; effect; grounds for modification or reversal.

Any appeal from the judgment of the Nebraska Workers' Compensation Court shall be prosecuted and the procedure, including the designation of parties, handling of costs and the amounts thereof, filing of briefs, certifying the opinion of the Supreme Court or decision of the Court of Appeals to the compensation court, handling of the bill of exceptions, and issuance of the mandate, shall be in accordance with the general laws of the state and procedures regulating appeals in actions at law from the district courts except as otherwise provided in section 48-182 and this section. The proceedings to obtain a reversal, vacation, or modification of judgments, awards, or final orders made by the compensation court shall be by filing in the office of the clerk of the Nebraska Workers' Compensation Court, within thirty days after the entry of such judgment, decree, or final order, a notice of appeal signed by the appellant or his or her attorney of record. No motion for a new trial shall be filed. An appeal shall be deemed perfected and the appellate court shall have jurisdiction of the cause when such notice of appeal shall have been filed in the office of the clerk of the Nebraska Workers' Compensation Court, and after being so perfected no appeal shall be dismissed without notice, and no step other than the filing of such notice of appeal shall be deemed jurisdictional. The clerk of the Nebraska Workers' Compensation Court shall forthwith forward a certified copy of such notice of appeal to the Clerk of the Supreme Court, whereupon the Clerk of the Supreme Court shall forthwith docket such appeal. Within thirty days after the date of filing of notice of appeal, the clerk of the Nebraska Workers' Compensation Court shall prepare and file with the Clerk of the Supreme Court a transcript certified as a true copy of the proceedings contained therein. The transcript shall contain the judgment, decree, or final order sought to be reversed, vacated, or modified and all pleadings filed with such clerk. Neither the form nor the substance of such transcript shall affect the jurisdiction of the appellate court. Such appeal shall be perfected within thirty days after the entry of judgment by the compensation court, the cause shall be advanced for argument before the appellate court, and the appellate court shall render its judgment and write an opinion, if any, in such cases as speedily as possible. The judgment made by the compensation court shall have the same force and effect as a jury verdict in a civil case. A judgment, order, or award of the compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers, (2) the judgment, order, or award was procured by fraud, (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award, or (4) the findings of fact by the compensation court do not support the order or award.

Source: Laws 1935, c. 57, § 13, p. 195; C.S.Supp.,1941, § 48-174; R.S. 1943, § 48-185; Laws 1953, c. 165, § 1, p. 517; Laws 1957, c. 207, § 1, p. 726; Laws 1975, LB 187, § 14; Laws 1986, LB 811,

§ 115; Laws 1986, LB 529, § 52; Laws 1991, LB 732, § 112; Laws 1992, LB 360, § 24; Laws 1999, LB 43, § 25; Laws 2011, LB151, § 13.

48-191 Time; how computed.

Notwithstanding any more general or special law respecting the subject matter hereof, whenever the last day of the period within which a party to an action may file any document or pleading with the Nebraska Workers' Compensation Court, or take any other action with respect to a claim for compensation, falls on a Saturday, a Sunday, any day on which the compensation court is closed by order of the Chief Justice of the Supreme Court, or any day declared by statutory enactment or proclamation of the Governor to be a holiday, the next following day, which is not a Saturday, a Sunday, a day on which the compensation court is closed by order of the Chief Justice of the Supreme Court, or a day declared by such enactment or proclamation to be a holiday, shall be deemed to be the last day for filing any such document or pleading or taking any such other action with respect to a claim for compensation.

Source: Laws 1955, c. 187, § 1, p. 535; Laws 1986, LB 811, § 120; Laws 2003, LB 760, § 16; Laws 2011, LB151, § 14.

PART V—CLAIMS AGAINST THE STATE

48-1,103 Workers' Compensation Claims Revolving Fund; established; deficiency; notify Legislature; investment.

There is hereby established in the state treasury a Workers' Compensation Claims Revolving Fund, to be administered by the Risk Manager, from which all workers' compensation costs, including prevention and administration, shall be paid. The fund may also be used to pay the costs of administering the Risk Management Program. The fund shall receive deposits from assessments against state agencies charged by the Risk Manager to pay for workers' compensation costs. When the amount of money in the Workers' Compensation Claims Revolving Fund is not sufficient to pay any awards or judgments under sections 48-192 to 48-1,109, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the Workers' Compensation Claims Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1971, LB 390, § 12; Laws 1981, LB 273, § 12; Laws 1986, LB 811, § 130; Laws 1994, LB 1211, § 3; Laws 1995, LB 7, § 45; Laws 2011, LB378, § 22.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-1,104 Risk Manager; report; contents.

The Risk Manager shall submit electronically a report to the Clerk of the Legislature by January 15 of each year, which report shall include the number of claims for which payments have been made, the amounts paid by categories of medical, hospital, compensation, and other costs separated by the agency and program or activity under which the claim arose. Each member of the

Legislature shall receive an electronic copy of such report by making a request for it to the Risk Manager.

Source: Laws 1971, LB 390, § 13; Laws 1972, LB 1334, § 3; Laws 1977, LB 399, § 1; Laws 1979, LB 322, § 16; Laws 1981, LB 545, § 52; Laws 1981, LB 273, § 13; Laws 2012, LB782, § 59.

PART VI—NAME OF ACT AND APPLICABILITY OF CHANGES

48-1,110 Act, how cited.

Sections 48-101 to 48-1,117 shall be known and may be cited as the Nebraska Workers' Compensation Act.

Source: Laws 1986, LB 811, § 136; Laws 1986, LB 1036, § 2; Laws 1990, LB 313, § 4; Laws 1992, LB 360, § 26; Laws 1993, LB 757, § 30; Laws 1997, LB 128, § 7; Laws 1997, LB 474, § 7; Laws 2005, LB 13, § 32; Laws 2007, LB588, § 5; Laws 2010, LB780, § 3; Laws 2011, LB151, § 16; Laws 2015, LB480, § 5.

48-1,111 Repealed. Laws 2013, LB21, § 2.

48-1,112 Laws 2011, LB151, changes; applicability.

Cases pending before the Nebraska Workers' Compensation Court on August 27, 2011, in which a hearing on the merits has been held prior to such date shall not be affected by the changes made in sections 48-125, 48-145.01, 48-155, 48-156, 48-170, 48-178, 48-180, 48-182, and 48-185 by Laws 2011, LB151. Any cause of action not in suit on August 27, 2011, and any cause of action in suit in which a hearing on the merits has not been held prior to such date shall follow the procedures in such sections as amended by Laws 2011, LB151.

Source: Laws 2011, LB151, § 15.

PART VII—COMPENSATION COURT CASH FUND

48-1,116 Compensation Court Cash Fund; created; use; investment.

The Compensation Court Cash Fund is hereby created. The fund shall be used to aid in providing for the expense of administering the Nebraska Workers' Compensation Act and the payment of the salaries and expenses of the personnel of the Nebraska Workers' Compensation Court.

The State Treasurer shall transfer one million five hundred thousand dollars from the Compensation Court Cash Fund to the General Fund after June 15, 2019, and before June 30, 2019, on such dates as directed by the budget administrator of the budget division of the Department of Administrative Services.

All fees received pursuant to sections 48-120, 48-120.02, 48-138, 48-139, 48-145.04, and 48-165 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund. The fund shall also consist of amounts credited to the fund pursuant to sections 48-1,113, 48-1,114, and 77-912. The State Treasurer may receive and credit to the fund any money which may at any time be contributed to the state or the fund by the federal government or any agency thereof to which the state may be or become entitled under any act of Congress or otherwise by reason of any payment made from the fund.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1993, LB 757, § 22; Laws 1994, LB 1066, § 35; Laws 2002, LB 1310, § 5; Laws 2005, LB 13, § 33; Laws 2009, First Spec. Sess., LB3, § 24; Laws 2017, LB331, § 24; Laws 2018, LB945, § 11.

Effective date April 5, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

PART VIII—COST-BENEFIT ANALYSIS

48-1,118 Cost-benefit analysis and review of Laws 1993, LB 757; reports.

On January 1, 1997, the Governor shall direct the Director of Insurance and the Commissioner of Labor to conduct and complete a cost-benefit analysis and a review of the effectiveness of the changes made by Laws 1993, LB 757, to control or reduce the cost of workers' compensation premiums. Information for the study may be elicited from interested persons and from the Nebraska Workers' Compensation Court. The director and the commissioner shall submit a report, which may include recommendations for further legislation, to the chairperson of the Business and Labor Committee of the Legislature, the Clerk of the Legislature, and the Governor by October 1, 1997. The Business and Labor Committee of the Legislature shall hold a public hearing on the study and shall submit a report to the Legislature by December 1, 1997. The Governor or the Legislature, by resolution, may require a similar study in 1999 and every two years thereafter. Any report submitted to the committee and the Clerk of the Legislature shall be submitted electronically.

Source: Laws 1993, LB 757, § 40; Laws 2012, LB782, § 60.

ARTICLE 2

GENERAL PROVISIONS

Section

- 48-201. Current or former employer; disclosure of information; immunity from civil liability; consent; form; period valid; applicability of section.
- 48-202. Public employer; applicant; disclosure of criminal record or history; limitation.
- 48-225. Veterans preference; terms, defined.
- 48-226. Veterans preference; required, when.
- 48-227. Veterans preference; examination or numerical scoring; notice and application; statement; veteran; duty; notice; contents.
- 48-238. Veterans preference in private employment; policy; notice to Commissioner of Labor; registry.

48-201 Current or former employer; disclosure of information; immunity from civil liability; consent; form; period valid; applicability of section.

(1)(a) A current or former employer may disclose the following information about a current or former employee's employment history to a prospective employer of the current or former employee upon receipt of written consent from the current or former employee:

- (i) Date and duration of employment;

- (ii) Pay rate and wage history on the date of receipt of written consent;
- (iii) Job description and duties;
- (iv) The most recent written performance evaluation prepared prior to the date of the request and provided to the employee during the course of his or her employment;
- (v) Attendance information;
- (vi) Results of drug or alcohol tests administered within one year prior to the request;
- (vii) Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;
- (viii) Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and
- (ix) Whether the employee is eligible for rehire.

(b) The current or former employer disclosing such information shall be presumed to be acting in good faith and shall be immune from civil liability for the disclosure or any consequences of such disclosure unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed by the current or former employer was false, and the current or former employer had knowledge of its falsity or acted with malice or reckless disregard for the truth.

(2)(a) The consent required in subsection (1) of this section shall be on a separate form from the application form or, if included in the application form, shall be in bold letters and in larger typeface than the largest typeface in the text of the application form. The consent form shall state, at a minimum, language similar to the following:

I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer).

(b) The consent must be signed and dated by the applicant.

(c) The consent will be valid for no longer than six months.

(3) This section shall also apply to any current or former employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with this section.

(4)(a) This section does not require any prospective employer to request employment history on a prospective employee and does not require any current or former employer to disclose employment history to any prospective employer.

(b) Except as specifically amended in this section, the common law of this state remains unchanged as it relates to providing employment information on current and former employees.

(c) This section applies only to causes of action accruing on and after July 19, 2012.

(5) The immunity conferred by this section shall not apply when an employer discriminates or retaliates against an employee because the employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by the public policy of this state.

Source: Laws 2012, LB959, § 1.

48-202 Public employer; applicant; disclosure of criminal record or history; limitation.

(1) Except as otherwise provided in this section, a public employer shall not ask an applicant for employment to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the public employer has determined the applicant meets the minimum employment qualifications.

(2) This section does not apply to any law enforcement agency, to any position for which a public employer is required by federal or state law to conduct a criminal history record information check, or to any position for which federal or state law specifically disqualifies an applicant with a criminal background.

(3)(a) This section does not prevent a public employer that is a school district or educational service unit from requiring an applicant for employment to disclose an applicant's criminal record or history relating to sexual or physical abuse.

(b) This section does not prevent a public employer from preparing or delivering an employment application that conspicuously states that a criminal history record information check is required by federal law, state law, or the employer's policy.

(c) This section does not prevent a public employer from conducting a criminal history record information check after the public employer has determined that the applicant meets the minimum employment qualifications.

(4) For purposes of this section:

(a) Law enforcement agency means an agency or department of this state or of any political subdivision of this state which is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of the town marshal, an office of the county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106; and

(b) Public employer means an agency or department of this state or of any political subdivision of this state.

Source: Laws 2014, LB907, § 12.

48-225 Veterans preference; terms, defined.

For purposes of sections 48-225 to 48-231:

(1) Servicemember means a person who serves on active duty in the armed forces of the United States except for training;

(2) Veteran means:

(a) A person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions); or

(b) The spouse of a veteran who has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs;

(3) Full-time duty means duty during time of war or during a period recognized by the United States Department of Veterans Affairs as qualifying for veterans benefits administered by the department and that such duty from January 31, 1955, to February 28, 1961, exceeded one hundred eighty days unless lesser duty was the result of a service-connected or service-aggravated disability;

(4) Disabled veteran means an individual who has served on active duty in the armed forces of the United States, has been discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) therefrom, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the United States Department of Veterans Affairs or a military department; and

(5) Preference eligible means any veteran as defined in this section or the spouse of a servicemember as defined in this section, except that for a spouse of a servicemember such preference is limited to the time during which the servicemember serves on active duty as described in subdivision (1) of this section and up to one hundred eighty days after the servicemember's discharge or separation from service.

Source: Laws 1969, c. 751, § 1, p. 2826; Laws 1991, LB 2, § 6; Laws 2001, LB 368, § 1; Laws 2005, LB 54, § 7; Laws 2014, LB588, § 2; Laws 2017, LB639, § 1.

48-226 Veterans preference; required, when.

A preference shall be given to preference eligibles seeking employment with the State of Nebraska or its governmental subdivisions. Such preference includes initial employment or a return to employment with the State of Nebraska or its governmental subdivisions if termination of previous employment was for other than disciplinary reasons.

Source: Laws 1969, c. 751, § 2, p. 2827; Laws 1997, LB 5, § 1; Laws 2017, LB639, § 2.

48-227 Veterans preference; examination or numerical scoring; notice and application; statement; veteran; duty; notice; contents.

(1) Veterans who obtain passing scores on all parts or phases of an examination or numerical scoring shall have five percent added to their passing score if a claim for such preference is made on the application. An additional five percent shall be added to the passing score or numerical scoring of any disabled veteran.

(2) When no examination or numerical scoring is used, the preference shall be given to the qualifying veteran if two or more equally qualified candidates are being considered for the position.

(3) All notices of positions of employment available for veterans preference and all applications for such positions by the state or its governmental subdivisions shall state that the position is subject to a veterans preference.

(4) A veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use a veterans preference shall provide the hiring authority

with a copy of the veteran's Department of Defense Form 214 or its successor form or record, a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating, and proof of marriage to the veteran. Any marriage claimed for veterans preference must be valid under Nebraska law.

(5) Within thirty days after filling a position, veterans who have applied and are not hired shall be notified by regular mail, electronic mail, telephone call, or personal service that they have not been hired. Such notice also shall advise the veteran of any administrative appeal available.

Source: Laws 1969, c. 751, § 3, p. 2827; Laws 1997, LB 5, § 2; Laws 2005, LB 54, § 8; Laws 2014, LB588, § 3; Laws 2018, LB497, § 1.

Effective date July 19, 2018.

48-238 Veterans preference in private employment; policy; notice to Commissioner of Labor; registry.

(1) For purposes of this section:

(a) Private employer means a sole proprietorship, a corporation, a partnership, an association, a limited liability company, or any other entity with one or more employees;

(b) Veteran means (i) a person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (ii) the spouse of a veteran who (A) has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs or (B) was killed in hostile action; and

(c) Voluntary veterans preference employment policy means a private employer's voluntary preference for hiring and promoting a veteran over another equally qualified applicant or employee.

(2) A private employer may adopt a voluntary veterans preference employment policy. Such policy shall be in writing and applied uniformly to decisions regarding hiring and promotion.

(3) If a private employer offers a voluntary veterans preference employment policy, a veteran desiring to use such policy shall provide the private employer with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use such preference shall provide the private employer with a copy of the veteran's Department of Defense Form 214 or its successor form or record, proof of marriage to the veteran, and either (a) a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating or (b) a copy of the veteran's Department of Defense Form 1300 or its successor form documenting that the veteran was killed in hostile action.

(4) If a private employer implements a voluntary veterans preference employment policy, it shall notify the Commissioner of Labor of such policy. The commissioner shall use the information to maintain a registry of the private employers that have a voluntary veterans preference employment policy in Nebraska.

(5) A voluntary veterans preference employment policy shall not be considered a violation of any state or local equal employment opportunity law including the Nebraska Fair Employment Practice Act.

Source: Laws 2015, LB272, § 1; Laws 2018, LB497, § 2.

Effective date July 19, 2018.

Cross References

Nebraska Fair Employment Practice Act, see section 48-1125.

**ARTICLE 3
CHILD LABOR**

Section

48-301. Terms, defined.

48-303. Employment certificate; approval by school officer; report; investigation.

48-307. Employment certificate; filing with Department of Labor.

48-301 Terms, defined.

For purposes of sections 48-302 to 48-313:

(1) Employment means (a) service for wages or (b) being under a contract of hire, written or oral, express or implied. Employment, other than detasseling, does not include any employment for which the employer is not liable for payment of the combined tax or payment in lieu of contributions under section 48-648, 48-649 to 48-649.04, or 48-660.01; and

(2) Detasseling means the removal of weeds, off-type and rogue plants, and corn tassels in hand pollinating and in any other engagement in hand labor in the production of seed.

Source: Laws 1995, LB 330, § 1; Laws 2001, LB 180, § 3; Laws 2017, LB172, § 3.

48-303 Employment certificate; approval by school officer; report; investigation.

Except as otherwise provided in this section, an employment certificate shall be approved only by the superintendent of the school district in which the child resides or by a person authorized by him or her in writing or, when there is no superintendent, by a person authorized by the school district officers, except that no school district officer or other person authorized by this section may approve such certificate for any child then in or about to enter his or her own employment or the employment of a firm or corporation of which he or she is a member, officer, or employee or in whose business he or she is interested. If a child who resides in an adjoining state seeks to work in Nebraska, the Department of Labor may approve the employment certificate. The officer or person approving such certificate may administer the oath provided for therein or in any investigation or examination necessary for the approval thereof. No fee shall be charged for approving any such certificate or for administering any oath or rendering any services related thereto. The school board or board of education of each school district approving the employment certificate, or the department if the department has approved the employment certificate, shall establish and maintain proper records where copies of all such certificates and all documents connected therewith shall be filed and preserved and shall provide the necessary clerical services for carrying out sections 48-302 to

48-313. The person who issued the employment certificate shall report to the department any complaint concerning the conditions of employment of a child for whom a certificate is in force. Upon receipt of the report, the department shall make such investigation as it deems advisable to protect an individual child or to promote the youth-work program.

Source: Laws 1907, c. 66, § 3, p. 260; R.S.1913, § 3577; Laws 1919, c. 190, tit. IV, art. III, § 3, p. 551; C.S.1922, § 7671; C.S.1929, § 48-303; R.S.1943, § 48-303; Laws 1967, c. 296, § 2, p. 805; Laws 1987, LB 35, § 2; Laws 1999, LB 272, § 19; Laws 2001, LB 180, § 4; Laws 2018, LB377, § 6.
Operative date January 1, 2019.

48-307 Employment certificate; filing with Department of Labor.

The superintendent of public schools in all cities having a population of more than one thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and the presiding officer of all other school boards shall furnish a duplicate copy of all certificates issued under sections 48-302 to 48-313 to the Department of Labor. The duplicate certificates in the form set forth in section 48-309 shall be filed with the Department of Labor at the time of the issuance of the original certificate.

Source: Laws 1907, c. 66, § 7, p. 262; R.S.1913, § 3581; Laws 1919, c. 190, tit. IV, art. III, § 7, p. 553; C.S.1922, § 7675; C.S.1929, § 48-307; R.S.1943, § 48-307; Laws 1987, LB 35, § 3; Laws 2017, LB113, § 45.

ARTICLE 4

HEALTH AND SAFETY REGULATIONS

Section

- 48-436. Terms, defined.
- 48-437. High voltage lines; prohibited acts; penalty.
- 48-438. High voltage lines; tools, equipment, materials, or buildings; operation, movement, or erection; use; conditions.
- 48-442. Violations; penalty.

48-436 Terms, defined.

For purposes of sections 48-436 to 48-442, unless the context otherwise requires:

- (1) High voltage means a voltage in excess of six hundred volts, measured between conductors, or measured between the conductor and the ground; and
- (2) Authorized and qualified persons includes employees of any electric utility, public power district, or public power and irrigation district with respect to the electrical systems of such utilities, employees of communications utilities, common carriers engaged in interstate commerce, state, county, or municipal agencies with respect to work relating to their facilities on the poles or structures of an electric utility or railway transportation system, employees of a railway transportation system or a metropolitan utilities district engaged in the normal operation of such system, and employees of a contractor with respect to work under his or her supervision when such work is being performed under contract for, or as an agent of, the owner of the above

utilities, companies, or agencies, so long as all such persons meet the requirements for working near overhead high voltage conductors as provided in 29 C.F.R. 1910.269(a)(2)(ii) through 1910.269(a)(3), as such regulations existed on July 19, 2012.

Source: Laws 1969, c. 390, § 1, p. 1370; Laws 2012, LB997, § 1.

48-437 High voltage lines; prohibited acts; penalty.

(1) No person, firm, or corporation, or agent of such person, firm, or corporation, shall require or permit any employee, except an authorized and qualified person, to perform and no person, except an authorized and qualified person, shall perform any function within the distances from overhead high voltage conductors prohibited by sections 48-436 to 48-442; or enter upon any land, building, or other premises, and there to engage in any excavation, demolition, construction, repair, or other operations, or to erect, install, operate, or store in or upon such premises any tools, machinery, equipment, materials, or structures, including house-moving, well-drilling, pile-driving, or hoisting equipment, within the distances from overhead high voltage conductors prohibited by sections 48-436 to 48-442, unless and until danger from accidental contact with such high voltage conductors has been effectively guarded against in the manner prescribed in sections 48-436 to 48-442.

(2)(a) No person except an authorized and qualified person shall manipulate overhead high voltage conductors or other components, including the poles and other structures, of an electric utility. Under no circumstances shall an authorized and qualified person work on the electrical system of an electric utility that he or she is not employed by unless written authorization has been obtained from such electric utility. This subsection shall not be construed to apply to activities performed by an authorized and qualified person employed by an electric utility on the electrical system of another electric utility when the nonowning or nonoperating electric utility has a written agreement with the owning and operating electric utility (i) providing for the joint use of or interconnection of the electrical systems of both the electric utilities or (ii) approving authorized and qualified persons employed by the nonowning or nonoperating electric utility to work on the electrical system of the owning or operating electric utility on an ongoing basis.

(b) Any person, firm, or corporation, or any employee thereof, violating any provisions of this subsection shall be guilty of a Class II misdemeanor.

Source: Laws 1969, c. 390, § 2, p. 1371; Laws 2012, LB997, § 2; Laws 2016, LB973, § 1.

48-438 High voltage lines; tools, equipment, materials, or buildings; operation, movement, or erection; use; conditions.

(1) Except as provided in subsections (2) and (3) of this section, the operation or erection of any tools, machinery, or equipment, or any part thereof capable of vertical, lateral, or swinging motion, or the handling or storage of any supplies, materials, or apparatus or the moving of any house or other building, or any part thereof, under, over, by, or near overhead high voltage conductors, shall be prohibited if, at any time during such operation or other manipulation, it is possible to bring such equipment, tools, materials, building, or any part thereof within ten feet of such overhead high voltage conductors, except where

such high voltage conductors have been effectively guarded against danger from accidental contact, by any of the following:

(a) Erection of mechanical barriers to prevent physical contact with high voltage conductors;

(b) Deenergizing of the high voltage conductors and grounding where necessary; or

(c) Temporary relocation of overhead high voltage conductors.

(2) The minimum distance required by this section for cranes or other boom type equipment in transit with no load and with raiseable portions lowered shall be four feet.

(3) Nothing in sections 48-436 to 48-442 shall prohibit the moving of general farm equipment under high voltage conductors where clearances required by sections 48-436 to 48-442 are maintained.

(4) The activities performed as described in subdivisions (1)(a), (b), and (c) of this section shall be performed only by the owner or operator of the high voltage conductors unless written authorization has been obtained from such owner or operator. This subsection shall not be construed to apply to activities performed by an electric utility on high voltage conductors of another electric utility when the electric utilities have a written agreement (a) providing for joint use of poles or structures supporting the high voltage conductors of the electric utilities or (b) approving the nonowning electric utility's performance of the activities described in subdivisions (1)(a), (b), and (c) of this section on an ongoing basis on the owning or operating electric utility's high voltage conductors.

Source: Laws 1969, c. 390, § 3, p. 1371; Laws 2012, LB997, § 3.

48-442 Violations; penalty.

Except as provided in subdivision (2)(b) of section 48-437, any person, firm, or corporation, or any employee thereof, violating any provisions of sections 48-436 to 48-442 shall be guilty of a Class V misdemeanor. Each day's failure to comply with any of the provisions of sections 48-436 to 48-442 shall constitute a separate violation.

Source: Laws 1969, c. 390, § 7, p. 1373; Laws 1977, LB 40, § 287; Laws 2016, LB973, § 2.

ARTICLE 6

EMPLOYMENT SECURITY

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48-601 Act, how cited.

Sections 48-601 to 48-683 shall be known and may be cited as the Employment Security Law.

Source: Laws 1937, c. 108, § 1, p. 370; Laws 1941, c. 94, § 14, p. 401; C.S.Supp.,1941, § 48-701; R.S.1943, § 48-601; Laws 1949, c. 163, § 1, p. 417; Laws 1953, c. 167, § 1, p. 520; Laws 1981, LB 470, § 1; Laws 1985, LB 339, § 1; Laws 1985, LB 343, § 1; Laws 1994, LB 1337, § 1; Laws 1996, LB 1072, § 1; Laws 2001, LB 192, § 1; Laws 2005, LB 484, § 2; Laws 2005, LB 739, § 1; Laws 2007, LB265, § 3; Laws 2010, LB1020, § 1; Laws 2014, LB961, § 12; Laws 2017, LB172, § 4.

48-602 Terms, defined.

For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Agricultural labor means services performed:

(a) On a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife;

(b) In the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm;

(c) In connection with the production or harvesting of any commodity in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(d)(i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed, or (ii) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (1)(d)(i) of this section, but only if such operators produced more than one-half of the commodity with respect to which such service is performed. Subdivisions (1)(d)(i) and (ii) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connec-

tion with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(2) Base period means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that if the individual is not monetarily eligible for unemployment benefits as determined pursuant to section 48-627.01 based upon wages paid during the first four of the five most recently completed calendar quarters, the department shall make a redetermination of monetary eligibility based upon an alternative base period which consists of the last four completed calendar quarters immediately preceding the first day of the claimant's benefit year;

(3) Benefits means the money payments payable to an individual with respect to his or her unemployment;

(4) Benefit year, with respect to any individual, means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627.01. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(5) Calendar quarter means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(6) Client means any individual, partnership, limited liability company, corporation, or other legally recognized entity that contracts with a professional employer organization to obtain professional employer services relating to worksite employees through a professional employer agreement;

(7) Combined tax means the employer liability consisting of contributions and the state unemployment insurance tax;

(8) Combined tax rate means the rate which is applied to wages to determine the combined taxes due;

(9) Commissioner means the Commissioner of Labor;

(10) Commodity means an agricultural commodity as defined in section 15(g) of the federal Agricultural Marketing Act, as amended, 12 U.S.C. 1141j;

(11) Contribution rate means the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(12) Contributions means that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649 to 48-649.04;

(13) Crew leader means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own

behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person;

(14) Department means the Department of Labor;

(15) Employers engaged in the construction industry means all employers primarily engaged in business activities classified as sector 23 business activities under the North American Industry Classification System;

(16) Employment office means a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(17) Farm means stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards;

(18) Fund means the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(19) Hearing officer means a person employed by the Department of Labor who conducts hearings, contested cases, or other proceedings pursuant to the Employment Security Law;

(20) Hospital means an institution which has been licensed, certified, or approved by the Department of Health and Human Services as a hospital;

(21) Insured work means employment for employers;

(22) Leave of absence means any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled as a matter of state or federal law;

(23) Paid vacation leave means a period of time while employed or following separation from employment in which the individual renders no services to the employer but is entitled to receive vacation pay equal to or exceeding his or her base weekly wage;

(24) Payments in lieu of contributions means the money payments to the Unemployment Compensation Fund required by sections 48-649.04, 48-652, 48-660.01, and 48-661;

(25) Professional employer agreement means a written professional employer services contract whereby:

(a) A professional employer organization agrees to provide payroll services, employee benefit administration, or personnel services for a majority of the employees providing services to the client at a client worksite;

(b) The agreement is intended to be ongoing rather than temporary in nature; and

(c) Employer responsibilities for worksite employees, including those of hiring, firing, and disciplining, are shared between the professional employer organization and the client by contract. The term professional employer agree-

ment shall not include a contract between a parent corporation, company, or other entity and a wholly owned subsidiary;

(26) Professional employer organization means any individual, partnership, limited liability company, corporation, or other legally recognized entity that enters into a professional employer agreement with a client or clients for a majority of a client's workforce at a client worksite. The term professional employer organization does not include an insurer as defined in section 44-103 or a temporary help firm;

(27) Standard rate means the rate assigned to category twenty for that year under section 48-649.03. The standard rate shall be not less than five and four-tenths percent of the employer's annual taxable payroll;

(28) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(29) State unemployment insurance tax means that portion of the combined tax which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649 to 48-649.04;

(30) State unemployment insurance tax rate means the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(31) Temporary employee means an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

(32) Temporary help firm means a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

(33) Unemployed means an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but does not include any individual on a leave of absence or on paid vacation leave. When an agreement between the employer and a bargaining unit representative does not allocate vacation pay allowance or pay in lieu of vacation to a specified period of time during a period of temporary layoff or plant shutdown, the payment by the employer or his or her designated representative will be deemed to be wages as defined in this section in the week or weeks the vacation is actually taken;

(34) Unemployment Trust Fund means the trust fund in the Treasury of the United States of America established under section 904 of the federal Social Security Act, 42 U.S.C. 1104, as such section existed on January 1, 2015, which receives credit from the state Unemployment Compensation Fund;

(35) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, means all remuneration for personal services, including commissions and bonuses, remuneration for personal services paid under a contract of hire, and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations adopted and promulgated by

the commissioner. Wages includes tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code as defined in section 49-801.01.

With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604, wages means cash remuneration and the cash value of commodities not intended for personal consumption by the worker and his or her immediate family for such services. With respect to services performed in employment in domestic service as is provided in subdivision (4)(d) of section 48-604, wages means cash remuneration for such services.

The term wages does not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code as defined in section 49-801.01;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01 which is exempt from tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code as defined in section 49-801.01;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retire-

ment, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan;

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(g) Benefits paid under a supplemental unemployment benefit plan which satisfies the eight points set forth in Internal Revenue Service Revenue Ruling 56-249 as the ruling existed on January 1, 2015, and is in compliance with the standards set forth in Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the rulings existed on January 1, 2015; and

(h) Remuneration for service performed in the employ of any state in the exercise of his or her duties as a member of the Army National Guard or Air National Guard or in the employ of the United States of America as a member of any military reserve unit;

(36) Week means such period of seven consecutive days as the commissioner may by rule and regulation prescribe;

(37) Week of unemployment with respect to any individual means any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount;

(38) Wholly owned subsidiary means a corporation, company, or other entity which has eighty percent or more of its outstanding voting stock or membership owned or controlled, directly or indirectly, by the parent entity; and

(39) Worksite employee has the same meaning as the term covered employee in section 48-2702.

Source: Laws 1937, c. 108, § 2, p. 370; Laws 1939, c. 56, § 1, p. 229; Laws 1940, Spec. Sess., c. 2, § 1, p. 54; Laws 1941, c. 94, § 1, p. 373; C.S.Supp., 1941, § 48-702; Laws 1943, c. 111, §§ 1, 2, p. 390; R.S. 1943, § 48-602; Laws 1947, c. 175, § 1, p. 563; Laws 1949, c. 163, § 2, p. 417; Laws 1951, c. 156, § 1, p. 626; Laws 1953, c. 167, § 2, p. 520; Laws 1961, c. 235, § 3, p. 695; Laws 1961, c. 238, § 1, p. 701; Laws 1971, LB 651, § 1; Laws 1972, LB 1392, § 1; Laws 1977, LB 509, § 1; Laws 1979, LB 581, § 1; Laws 1980, LB 800, § 1; Laws 1983, LB 248, § 1; Laws 1985, LB 339, § 2; Laws 1986, LB 950, § 1; Laws 1988, LB 1033, § 1; Laws 1992, LB 879, § 1; Laws 1993, LB 121, § 289; Laws 1994, LB 286, § 1; Laws 1994, LB 1337, § 2; Laws 1995, LB 77, § 1; Laws 1995, LB 574, § 51; Laws 1996, LB 1044, § 274; Laws 1999, LB 168, § 1; Laws 1999, LB 608, § 1; Laws 2001, LB 192, § 3; Laws 2002, LB 921, § 1; Laws 2005, LB 484, § 3; Laws 2005, LB 739, § 2; Laws 2007, LB265, § 4; Laws 2007, LB296, § 216; Laws 2010, LB579, § 20; Laws 2010, LB1020, § 2; Laws 2015, LB271, § 1; Laws 2017, LB172, § 5.

48-603 Employer, defined.

As used in the Employment Security Law, unless the context clearly requires otherwise, employer shall mean:

(1) Any individual or type of organization, including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee

in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which for some portion of a day but not necessarily simultaneously in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or preceding calendar year, and for the purpose of this definition, if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day; all individuals performing services for any employer of any person in this state, who maintains two or more separate establishments within this state, shall be deemed to be employed by a single employer; any artifice or device, including any contract or subcontract, by an employer for the performance of work, which is a part of such employer's usual trade, occupation, profession, or business, entered into for the purpose or with the intent of evading the application of this section to such employer, is hereby prohibited and declared to be unlawful;

(2) Any employer of any person in this state who in any calendar quarter in either the current or preceding calendar year has paid wages for employment in the total sum of fifteen hundred dollars or more;

(3) Any individual or employer of any person in this state which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer which, at the time of such acquisition, was an employer subject to the Employment Security Law;

(4) Any employer of any person in this state, which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer of any person in this state, not an employer subject to such law, and which, if subsequent to such acquisition it were treated as a single unit with such other employer, would be an employer under subdivision (1) or (2) of this section;

(5) Any employer of any person in this state which, having become an employer under any provision of the Employment Security Law and which has not, under section 48-661, ceased to be an employer subject to such law;

(6) For the effective period of its election pursuant to section 48-661, any other employer of any person in this state who has elected to become fully subject to the Employment Security Law;

(7) Any employer of any person in this state not an employer by reason of any other subdivision of this section (a) for which services in employment are or were performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or (b) which, as a condition for approval of the Employment Security Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer under the Employment Security Law;

(8) The state or any political subdivision thereof and any instrumentality of any one or more of the foregoing;

(9) Any organization for which service in employment as defined in subdivision (4)(b) of section 48-604 is performed;

(10) Any individual or employing unit for which service in employment as defined in subdivision (4)(c) of section 48-604 is performed;

(11) Any individual or employing unit for which service in employment as defined in subdivision (4)(d) of section 48-604 is performed; and

(12)(a) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under subdivision (1) or (10) of this section, the wages earned or the employment of an employee performing domestic service shall not be taken into account; and

(b) In determining whether or not an employing unit for which agricultural labor is also performed is an employer under subdivision (11) of this section, the wages earned or the employment of an employee performing services in agricultural labor shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of subdivision (1) of this section.

Source: Laws 1937, c. 108, § 2, p. 371; Laws 1939, c. 56, § 1, p. 229; Laws 1940, Spec. Sess., c. 2, § 1, p. 54; Laws 1941, c. 94, § 1, p. 374; C.S.Supp.,1941, § 48-702; R.S.1943, § 48-603; Laws 1945, c. 114, § 1, p. 369; Laws 1955, c. 190, § 1, p. 538; Laws 1971, LB 651, § 2; Laws 1977, LB 509, § 2; Laws 1985, LB 339, § 3; Laws 1993, LB 121, § 290; Laws 2015, LB271, § 2.

48-603.01 Indian tribes; applicability of Employment Security Law.

(1) For purposes of the Employment Security Law, unless the context otherwise requires, the term employer shall include any Indian tribe for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed.

(2) The term employment shall include service performed in the employ of an Indian tribe, as defined in 26 U.S.C. 3306(u), as such section existed on January 1, 2015, if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of 26 U.S.C. 3306(c)(7), as such section existed on January 1, 2015, and is not otherwise excluded from employment under the Employment Security Law. For purposes of this section, the exclusions from employment in subdivisions (6)(f) and (6)(g) of section 48-604 shall be applicable to services performed in the employment of an Indian tribe.

(3) Benefits based on service in employment defined in this section shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other covered employment under the Employment Security Law. Section 48-628.06 shall apply to services performed in an educational institution or educational service agency owned or operated by an Indian tribe.

(4)(a) Indian tribes or tribal units, subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to the Employment Security Law, shall pay combined tax under the same terms and conditions as all other subject employers, unless they elect to make payments in lieu of contributions equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(b) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in section 48-649.04 pertaining to state and local governments subject to the Employment Security Law. Indian tribes shall determine if reimburse-

ment for benefits paid will be elected by the tribe as a whole, by individual tribal units, or by combinations of individual tribal units.

(c) Except as provided in subsection (7) of this section, Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(d) At the discretion of the commissioner, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election to:

(i) Execute and file with the commissioner a surety bond approved by the commissioner; or

(ii) Deposit with the commissioner money or securities on the same basis as other employers with the same election option.

(5)(a)(i) Failure of the Indian tribe or tribal unit to make required payments, including assessments of interest and penalty, within ninety days of receipt of the bill will cause the Indian tribe to lose the option to make payments in lieu of contributions, as described in subsection (4) of this section, for the following tax year unless payment in full is received before combined tax rates for the next tax year are computed.

(ii) Any Indian tribe that loses the option to make payments in lieu of contributions due to late payment or nonpayment, as described in subdivision (5)(a)(i) of this section, shall have such option reinstated if, after a period of one year, all combined taxes have been paid timely and no combined tax, payments in lieu of contributions for benefits paid, penalties, or interest remain outstanding.

(b)(i) Failure of the Indian tribe or any tribal unit thereof to make required payments, including assessments of interest and penalty, after all collection activities deemed necessary by the commissioner have been exhausted will cause services performed for such tribe to not be treated as employment for purposes of subsection (2) of this section.

(ii) The commissioner may determine that any Indian tribe that loses coverage under subdivision (5)(b)(i) of this section may have services performed for such tribe again included as employment for purposes of subsection (2) of this section if all contributions, payments in lieu of contributions, penalties, and interest have been paid.

(6) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed timeframe:

(a) Will cause the Indian tribe to be liable for taxes under the Federal Unemployment Tax Act, as the act existed on January 1, 2015;

(b) Will cause the Indian tribe to lose the option to make payments in lieu of contributions; and

(c) Could cause the Indian tribe to be excepted from the definition of employer, as provided in subsection (1) of this section, and services in the employ of the Indian tribe, as provided in subsection (2) of this section, to be excepted from employment.

(7) Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government shall be financed in their entirety by such Indian tribe.

(8) If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days after a final notice of delinquency, the commissioner shall immediately notify the United States Internal Revenue Service and the United States Department of Labor.

Source: Laws 2001, LB 192, § 2; Laws 2003, LB 199, § 1; Laws 2005, LB 739, § 4; Laws 2015, LB271, § 3; Laws 2017, LB172, § 6.

48-604 Employment, defined.

As used in the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed, including service in interstate commerce, for wages under a contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (i) the service is performed entirely within such state or (ii) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to the Employment Security Law if the commissioner approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to such law;

(b) Services of an individual wherever performed within the United States or Canada if (i) such service is not covered under the employment compensation law of any other state or Canada and (ii) the place from which the service is directed or controlled is in this state; and

(c)(i) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under subdivisions (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if:

(A) The employer's principal place of business in the United States is located in this state;

(B) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; the employer is a corporation or limited liability company which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(C) None of the criteria of subdivisions (A) and (B) of this subdivision are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the laws of this state.

(ii) American employer, for the purposes of this subdivision, shall mean: (A) An individual who is a resident of the United States; (B) a partnership if two-thirds or more of the partners are residents of the United States; (C) a trust if all the trustees are residents of the United States; or (D) a corporation or limited liability company organized under the laws of the United States or of any state.

(iii) The term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions if such service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(7), and is not otherwise excluded under this section;

(b) Service performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (i) The service is excluded from employment as defined in the Federal Unemployment Tax Act, as amended, solely by reason of 26 U.S.C. 3306(c)(8), and is not otherwise excluded under this section; and (ii) the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c)(i) Service performed by an individual in agricultural labor if such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time.

(ii) For purposes of this subdivision:

(A) Any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection

Act, as amended, 29 U.S.C. 1801 et seq.; substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and such individual is not an employee of such other person within the meaning of any other provisions of this section; and

(B) In case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (A) of this subdivision, such other person and not the crew leader shall be treated as the employer of such individual and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and

(d) Service performed by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more in the current calendar year or the preceding calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages, including wages received under a contract of hire, shall be deemed to be employment unless it is shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include:

(a) Agricultural labor, except as provided in subdivision (4)(c) of this section;

(b) Domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority;

(c) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (c)(i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother;

(e) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649 to 48-649.04, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state is not certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code as defined in section 49-801.01, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected;

(f) Service performed in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars;

(g) For the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed:

(i) In the employ of (A) a church or convention or association of churches or (B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order;

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(iv) As part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(v) By an inmate of a custodial or penal institution;

(h) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress;

(i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01, other than an organization described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01, or under section 521 thereof, if the remuneration for such service is less than fifty dollars;

(j) Service performed in the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled, regularly attending classes at, and working for such school, college, or university pursuant to a financial assistance arrangement with such school, college, or university or (ii) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and (B) such employment will not be covered by any program of unemployment insurance;

(k) Service performed as a student nurse in the employ of a hospital or nurses training school by an individual who is enrolled and is regularly attending classes in a nurses training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(l) Service performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission;

(m) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(n) Service performed by an individual in the sale, delivery, or distribution of newspapers or magazines under a written contract in which (i) the individual acknowledges that the individual performing the service and the service are not covered and (ii) the newspapers and magazines are sold by him or her at a fixed price with his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(o) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers;

(p) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital;

(q) Service performed for a motor carrier, as defined in 49 U.S.C. 13102 or section 75-302, as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a lease,

with the motor carrier as lessee, executed pursuant to 49 C.F.R. part 376, Title 291, Chapter 3, as amended, of the rules and regulations of the Public Service Commission, or the rules and regulations of the Division of Motor Carrier Services. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of the service performed for the lessee;

(r) Service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual;

(s) Service performed by an individual as a volunteer research subject who is paid on a per study basis for scientific, medical, or drug-related testing for any organization other than one described in section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01 or any governmental entity;

(t) Service performed by a direct seller if:

(i) Such person is engaged in sales primarily in person and is:

(A) Engaged in the trade or business of selling or soliciting the sale of consumer products or services to any buyer on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment;

(B) Engaged in the trade or business of selling or soliciting the sale of consumer products or services in the home or otherwise than in a permanent retail establishment; or

(C) Engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business;

(ii) Substantially all the remuneration, whether or not paid in cash, for the performance of the services described in subdivision (t)(i) of this subdivision is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and the contract provides that the person will not be treated as an employee for federal and state tax purposes. Sales by a person whose business is conducted primarily by telephone or any other form of electronic sales or solicitation is not service performed by a direct seller under this subdivision;

(u) Service performed by an individual who is a participant in the National and Community Service State Grant Program, also known as AmeriCorps, because a participant is not considered an employee of the organization receiving assistance under the national service laws through which the participant is engaging in service pursuant to 42 U.S.C. 12511(30)(B); and

(v) Service performed at a penal or custodial institution by a person committed to a penal or custodial institution;

(7) If the services performed during one-half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subdivision, the term pay period

means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her when any of such service is excepted by subdivision (6)(h) of this section; and

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, as amended, is required to be covered under the Employment Security Law.

Source: Laws 1937, c. 108, § 2, p. 372; Laws 1939, c. 56, § 1, p. 230; Laws 1940, Spec. Sess., c. 2, § 1, p. 54; Laws 1941, c. 94, § 1, p. 375; C.S.Supp.,1941, § 48-702; R.S.1943, § 48-604; Laws 1945, c. 115, § 1, p. 376; Laws 1947, c. 175, § 2, p. 566; Laws 1953, c. 167, § 3, p. 523; Laws 1959, c. 228, § 1, p. 795; Laws 1961, c. 238, § 2, p. 704; Laws 1971, LB 651, § 3; Laws 1972, LB 1392, § 2; Laws 1977, LB 509, § 3; Laws 1979, LB 581, § 2; Laws 1983, LB 248, § 2; Laws 1983, LB 319, § 1; Laws 1984, LB 745, § 1; Laws 1985, LB 339, § 4; Laws 1986, LB 799, § 1; Laws 1993, LB 121, § 291; Laws 1994, LB 1337, § 3; Laws 1995, LB 424, § 1; Laws 1995, LB 574, § 52; Laws 1997, LB 79, § 1; Laws 1997, LB 129, § 1; Laws 1997, LB 130, § 1; Laws 1999, LB 168, § 2; Laws 2000, LB 953, § 1; Laws 2001, LB 387, § 1; Laws 2003, LB 199, § 2; Laws 2011, LB261, § 1; Laws 2016, LB830, § 1; Laws 2017, LB172, § 7.

48-605 Commissioner; salary.

The commissioner, for his or her services with respect to the administration of the Employment Security Law, shall receive the salary of the commissioner as set out in section 81-103.

Source: Laws 1937, c. 108, § 10, p. 389; Laws 1939, c. 56, § 15, p. 254; Laws 1941, c. 94, § 15, p. 401; C.S.Supp.,1941, § 48-710; R.S. 1943, § 48-605; Laws 1947, c. 175, § 3, p. 572; Laws 1949, c. 163, § 3, p. 420; Laws 1961, c. 239, § 1, p. 712; Laws 1984, LB 747, § 1; Laws 1985, LB 339, § 5; Laws 2015, LB271, § 4.

48-606 Commissioner; duties; powers; annual report; schedule of fees.

(1) It shall be the duty of the Commissioner of Labor to administer the Employment Security Law. He or she shall have the power and authority to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he or she deems necessary or suitable, if consistent with the Employment Security Law. The commissioner shall determine his or her own organization and methods of procedure in accordance with such law and shall have an official seal which shall be judicially noticed. Not later than the first day of January of each year, the commissioner shall submit to the Governor a report covering the administration and operation of such law during the preceding combined tax rate

computational period ending September 30. The report shall include a balance sheet of the money in the fund in which there shall be provided a reserve against the liability in future years to pay benefits in excess of the then current contributions. The reserve shall be set up by the commissioner. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he or she shall promptly inform the Governor and the Clerk of the Legislature and make recommendations with respect thereto. Such information and recommendations submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such information upon request to the commissioner.

(2) The commissioner may establish a schedule of fees to recover the cost of services including, but not limited to, copying, preparation of forms and other materials, responding to inquiries for information, payments for returned check charges and electronic payments not accepted, and furnishing publications prepared by the commissioner pursuant to the Employment Security Law. Fees received pursuant to this subsection shall be deposited in the Employment Security Administration Fund.

(3) Nothing in this section shall be construed to allow the department to charge any fee for making a claim for unemployment benefits or receiving assistance from the state employment service established pursuant to section 48-662 when performing functions within the purview of the federal Wagner-Peyser Act, 29 U.S.C. 49 et seq., as amended.

Source: Laws 1937, c. 108, § 11, p. 390; Laws 1941, c. 94, § 8, p. 396; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-606; Laws 1953, c. 167, § 4(1), p. 529; Laws 1955, c. 231, § 8, p. 720; Laws 1979, LB 322, § 17; Laws 1985, LB 339, § 6; Laws 1987, LB 278, § 1; Laws 2003, LB 195, § 1; Laws 2007, LB265, § 5; Laws 2012, LB782, § 61; Laws 2017, LB172, § 8.

48-606.01 Commissioner; office space; acquire; approval of Department of Administrative Services.

The commissioner, with the written consent of the Department of Administrative Services, is authorized and empowered to use any funds available under either subdivision (1)(a) or (1)(b) of section 48-621, for the purpose of acquiring suitable office space within the corporate limits of the state capital city for the administration of the Employment Security Law. Office space may be acquired by purchase, by contract, or in any other manner including the right to use such funds, or any part thereof, to assist in financing the construction of any building erected by the State of Nebraska or any of its agencies. If the Department of Labor assists in financing the construction of any building erected by the State of Nebraska or any of its agencies under a lease or contract between the commissioner and the State of Nebraska or such other agency, the Department of Labor shall continue to occupy such space rent free after the cost of financing such building has been liquidated. The commissioner, upon approval by the Department of Administrative Services, is authorized and empowered to use any such funds to acquire suitable office space for local employment offices anywhere in the State of Nebraska.

Source: Laws 1953, c. 167, § 4(2), p. 530; Laws 1955, c. 190, § 2, p. 540; Laws 1961, c. 239, § 2, p. 713; Laws 1975, LB 359, § 1; Laws 1984, LB 747, § 2; Laws 1985, LB 339, § 7; Laws 1995, LB 1, § 1; Laws 2000, LB 953, § 2; Laws 2017, LB172, § 9.

48-609 Personnel; powers of commissioner; bond or insurance; retirement system.

(1) Subject to other provisions of the Employment Security Law, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under such law. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of such law. Employees handling money or signing warrants under such law shall be bonded or insured as required by section 11-201. The commissioner may pay the share of the premium from the Employment Security Administration Fund. The commissioner shall classify positions under such law and shall establish salary schedules and minimum personnel standards for the positions so classified. The commissioner shall follow State Personnel System rules, regulations, and contract requirements for appointments, promotions, demotions, and terminations for cause based upon ratings of efficiency and fitness.

(2) Any person employed by the department and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.

Source: Laws 1937, c. 108, § 11, p. 391; Laws 1939, c. 56, § 8, p. 246; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-609; Laws 1961, c. 240, § 1, p. 715; Laws 1978, LB 653, § 10; Laws 1984, LB 747, § 3; Laws 1985, LB 339, § 10; Laws 1987, LB 272, § 1; Laws 1989, LB 29, § 1; Laws 2004, LB 884, § 21; Laws 2017, LB172, § 10.

Cross References

State Employees Retirement Act, see section 84-1331.

48-612 Employers; records and reports required; privileged communications; violation; penalty.

(1) Each employer, whether or not subject to the Employment Security Law, shall keep true and accurate work records containing such information as required by the Commissioner of Labor. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner and a hearing officer may require from any such employer any sworn or unsworn reports, with respect to persons employed by it, deemed necessary for the effective administration of such law. Except as otherwise provided in section 48-612.01, information obtained pursuant to this section or obtained from any employer or individual pursuant to the administration of the Employment Security Law shall be held confidential.

(2) Any employee of the commissioner who violates any provision of sections 48-606 to 48-616 shall be guilty of a Class III misdemeanor.

(3) All letters, reports, communications, or any other matters, either oral or written, from an employer or his or her workers to each other or to the commissioner or any of his or her agents, representatives, or employees written or made in connection with the requirements and administration of the Em-

ployment Security Law, or the rules and regulations thereunder, shall be absolutely privileged. Any such letters, reports, communications, or other matters shall not be made the subject matter or basis for any suit for slander or libel in any court of this state, unless the same be false in fact and malicious in intent.

Source: Laws 1937, c. 108, § 11, p. 392; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-612; Laws 1945, c. 115, § 2, p. 381; Laws 1977, LB 40, § 290; Laws 1985, LB 339, § 11; Laws 1993, LB 757, § 31; Laws 2001, LB 192, § 5; Laws 2007, LB265, § 6; Laws 2017, LB172, § 11.

48-612.01 Employer information; disclosure authorized; costs; prohibited redisclosure; penalty.

(1) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) Any claimant or employer or representative of a claimant or employer, as a party before a hearing officer or court regarding an unemployment claim or tax appeal, shall be supplied with information obtained in the administration of the Employment Security Law, to the extent necessary for the proper presentation of the claim or appeal;

(b) The names, addresses, and identification numbers of employers may be disclosed to the Nebraska Workers' Compensation Court which may use such information for purposes of enforcement of the Nebraska Workers' Compensation Act;

(c) Hearing officer decisions rendered pursuant to the Employment Security Law and designated as precedential by the commissioner on the coverage of employers, employment, wages, and benefit eligibility may be published in printed or electronic format if all social security numbers have been removed and disclosure is consistent with federal and state law;

(d) To a public official for use in the performance of his or her official duties. For purposes of this subdivision, performance of official duties means the administration or enforcement of law or the execution of the official responsibilities of a federal, state, or local elected official. Administration of law includes research related to the law administered by the public official. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public office or to a political party;

(e) To an agent or contractor of a public official to whom disclosure is permissible under subdivision (d) of this subsection;

(f) For use in reports and publications containing information collected exclusively for statistical purposes under a cooperative agreement with the federal Bureau of Labor Statistics. This subdivision does not restrict or impose any condition on the transfer of any other information to the federal Bureau of Labor Statistics under an agreement or the federal Bureau of Labor Statistics' disclosure or use of such information; and

(g) In response to a court order.

(2) Information about an individual or employer obtained pursuant to subsection (1) of section 48-612 may be disclosed to:

(a) One who acts as an agent for the individual or employer when the agent presents a written release from the individual or employer, where practicable, or other evidence of authority to act on behalf of the individual or employer;

(b) An elected official who is performing constituent services if the official presents reasonable evidence that the individual or employer has authorized such disclosure;

(c) An attorney who presents written evidence that he or she is representing the individual or employer in a matter arising under the Employment Security Law; or

(d) A third party or its agent carrying out the administration or evaluation of a public program. The third party or agent must obtain a written release from the individual or employer to whom the information pertains. To constitute informed consent, the release shall be signed and shall include a statement:

(i) Specifically identifying the information that is to be disclosed;

(ii) That state government files will be accessed to obtain that information;

(iii) Identifying the specific purpose or purposes for which the information is sought and that information obtained under the release will only be used for that purpose or purposes; and

(iv) Identifying and describing all the parties who may receive the disclosed information.

(3) Information obtained pursuant to subsection (1) of section 48-612 may be disclosed under the following circumstances:

(a) To an individual or employer if the information requested pertains only to the individual or employer making the request;

(b) To a local, state, or federal governmental official, other than a clerk of court, attorney, or notary public acting on behalf of a litigant, with authority to obtain such information by subpoena under state or federal law; and

(c) To a federal official for purposes of unemployment compensation program oversight and audits, including disclosures under 20 C.F.R. part 601 and 29 C.F.R. parts 96 and 97 as they existed on January 1, 2007.

(4) If the purpose for which information is provided under subsection (1), (2), or (3) of this section is not related to the administration of the Employment Security Law or the unemployment insurance compensation program of another jurisdiction, the commissioner shall recover the costs of providing such information from the requesting individual or entity prior to providing the information. Costs shall be recovered unless the costs are nominal or the entity is a governmental agency which the commissioner has determined provides reciprocal services.

(5) Any person who receives information under subsection (1) or (2) of this section and rediscloses such information for any purpose other than the purpose for which it was originally obtained shall be guilty of a Class III misdemeanor.

Source: Laws 2007, LB265, § 7; Laws 2009, LB631, § 1; Laws 2017, LB172, § 12.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

48-613 Oaths; depositions; subpoenas.

In the discharge of the duties imposed by the Employment Security Law, the Commissioner of Labor, an impartial hearing officer employed by the Department of Labor, and any duly authorized representative of any of them shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of such law.

Source: Laws 1937, c. 108, § 11, p. 393; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-613; Laws 1985, LB 339, § 12; Laws 2001, LB 192, § 6; Laws 2017, LB172, § 13.

48-614 Subpoenas; contumacy or disobedience; punishable as contempt; penalty.

The Commissioner of Labor, a hearing officer, or a duly authorized representative of the commissioner may petition a court to enforce a subpoena issued by the commissioner or a hearing officer in case of contumacy by any person or refusal of any person to obey such a subpoena. Any court of this state which has subject matter jurisdiction and has venue jurisdiction of the place where the person guilty of contumacy or refusal to obey is found, resides, or transacts business has jurisdiction to issue such person an order requiring him or her to appear before the commissioner, a hearing officer, or a duly authorized representative and to produce evidence or give testimony if so ordered touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as contempt. Any person who without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his or her power so to do, in obedience to a subpoena of the commissioner, a hearing officer, or a duly authorized representative shall be guilty of a Class III misdemeanor. Each day such violation continues shall be a separate offense.

Source: Laws 1937, c. 108, § 11, p. 393; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-614; Laws 1977, LB 40, § 291; Laws 2001, LB 192, § 7; Laws 2017, LB172, § 14.

48-616 Commissioner of Labor; cooperation with Secretary of Labor of the United States; duties.

In the administration of the Employment Security Law, the Commissioner of Labor shall cooperate, to the fullest extent consistent with such law, with the Secretary of Labor of the United States. The commissioner is authorized and directed to adopt appropriate rules and regulations, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the Social Security Act, under sections 3303 and 3304 of the Federal Unemployment Tax Act, and under the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with states in the promotion of such system, and for other purposes, approved June 6, 1933, as amended. The commissioner shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this state of money granted under any of such acts. The commissioner shall make such reports, in such form and containing such

information as the Secretary of Labor may from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports. Upon request, the commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under the Employment Security Law. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Source: Laws 1937, c. 108, § 11, p. 394; Laws 1939, c. 56, § 8, p. 247; Laws 1941, c. 94, § 16, p. 401; C.S.Supp.,1941, § 48-711; R.S. 1943, § 48-616; Laws 1961, c. 238, § 3, p. 709; Laws 1985, LB 339, § 13; Laws 2017, LB172, § 15.

48-617 Unemployment Compensation Fund; establishment; composition; investment.

(1) There is hereby established as a special fund, separate and apart from all public money or funds of this state, an Unemployment Compensation Fund. The fund shall be administered by the Commissioner of Labor exclusively for the purposes of the Employment Security Law. The fund shall consist of:

(a) All contributions and payments in lieu of contributions collected under such law together with any interest thereon collected pursuant to sections 48-655 to 48-660.01, except as provided in subdivision (1)(b) of section 48-621;

(b) Interest earned upon any money in the fund;

(c) Any property or securities acquired through the use of money belonging to the fund;

(d) All earnings of such property or securities;

(e) All money credited to this state's account in the Unemployment Trust Fund pursuant to section 903 of the federal Social Security Act, as amended; and

(f) All other money received for the fund from any other source.

(2) Any money in the Unemployment Compensation Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1937, c. 108, § 9, p. 387; Laws 1939, c. 56, § 7, p. 243; C.S.Supp.,1941, § 48-709; R.S.1943, § 48-617; Laws 1947, c. 175, § 4, p. 572; Laws 1957, c. 208, § 1, p. 728; Laws 1969, c. 584, § 48, p. 2374; Laws 1972, LB 1392, § 3; Laws 1985, LB 339, § 14; Laws 1995, LB 1, § 2; Laws 1995, LB 7, § 46; Laws 2000, LB 953, § 3; Laws 2017, LB172, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-618 Unemployment Compensation Fund; treasurer; accounts; transfer of interest; depositories; Unemployment Trust Fund; investment; bond or insurance.

(1) The Commissioner of Labor shall designate a treasurer and custodian of the Unemployment Compensation Fund, who shall be selected in accordance with section 48-609. The treasurer shall administer the Unemployment Compensation Fund in accordance with the directions of the commissioner and shall issue his or her warrants upon it in accordance with such rules and regulations as adopted and promulgated by the commissioner. The treasurer shall maintain within the Unemployment Compensation Fund three separate accounts:

- (a) A clearing account;
- (b) An Unemployment Trust Fund account; and
- (c) A benefit account.

(2) All money payable to the Unemployment Compensation Fund, upon receipt by the commissioner, shall be forwarded to the treasurer. The treasurer shall immediately deposit the same in the clearing account. Transfers of interest on delinquent contributions pursuant to subdivision (1)(b) of section 48-621 and refunds payable pursuant to section 48-660 may be paid from the clearing account upon warrants issued by the treasurer of the Unemployment Compensation Fund under the direction of the commissioner. After clearance, all other money in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund. The benefit account shall consist of all money requisitioned from this state's account in the Unemployment Trust Fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer under the direction of the commissioner in any bank or public depository in which general funds of the state may be deposited. No public deposit insurance charge or premium shall be paid out of the Unemployment Compensation Fund.

(3) The Unemployment Trust Fund is to be maintained pursuant to section 904 of the Social Security Act, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(4) Any money in the Unemployment Trust Fund available for investment by the State of Nebraska shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The treasurer shall be bonded or insured as required by section 11-201.

Source: Laws 1937, c. 108, § 9, p. 387; Laws 1939, c. 56, § 7, p. 243; Laws 1941, c. 94, § 7, p. 395; C.S.Supp., 1941, § 48-709; R.S. 1943, § 48-618; Laws 1947, c. 175, § 5, p. 573; Laws 1955, c. 190, § 4, p. 541; Laws 1978, LB 653, § 11; Laws 1985, LB 339, § 15; Laws 1995, LB 1, § 3; Laws 2000, LB 953, § 4; Laws 2004, LB 884, § 22; Laws 2017, LB172, § 17.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-619 Unemployment Trust Fund; withdrawals.

(1) Money shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits in accordance with lawful

rules and regulations adopted and promulgated by the Commissioner of Labor, except that money credited to this fund pursuant to section 903 of the federal Social Security Act, as amended, may be appropriated by the Legislature in accordance with section 903 of the federal Social Security Act for the administration of the Employment Security Law. For such purposes and to the extent required, credits to the account pursuant to section 903 of the federal Social Security Act may be transferred to the Employment Security Administration Fund established in subdivision (1)(a) of section 48-621. The commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts as he or she deems necessary for the payment of benefits for a reasonable future period, not to exceed the amounts standing to this state's account therein. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue his or her warrants as provided by law for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations.

(2) Any balance of money requisitioned from the Unemployment Trust Fund, which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned, shall, at the discretion of the commissioner, either be:

(a) Deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods; or

(b) Redeposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the Unemployment Trust Fund, as provided in section 48-618.

(3) As used in this section, the term warrant shall include a signature negotiable instrument, electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the treasurer. The warrant, when it is a dual signature negotiable instrument, shall affect the state's cash balance in the bank when redeemed by the treasurer, not when cashed by a financial institution.

Source: Laws 1937, c. 108, § 9, p. 388; Laws 1939, c. 56, § 7, p. 244; C.S.Supp.,1941, § 48-709; R.S.1943, § 48-619; Laws 1957, c. 208, § 2, p. 728; Laws 1985, LB 339, § 16; Laws 1995, LB 1, § 4; Laws 2000, LB 953, § 5; Laws 2005, LB 484, § 4; Laws 2017, LB172, § 18.

48-620 Unemployment Trust Fund; discontinuance.

(1) The provisions of sections 48-617 to 48-619, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes. The separate book account for this state shall also include the state's proportionate share of earnings from the Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when the Unemployment Trust Fund ceases to exist or such separate book account is no longer maintained, all money, properties, or securities therein belonging to the

Unemployment Compensation Fund of this state shall be transferred to the treasurer of the Unemployment Compensation Fund.

(2) If advances to the Unemployment Trust Fund under Title XII of the federal Social Security Act are necessary, any interest required to be paid on such advances shall be paid in a timely manner and shall not be paid by this state, directly or indirectly, by an equivalent reduction in state unemployment taxes or otherwise, from amounts in the Unemployment Compensation Fund.

Source: Laws 1937, c. 108, § 9, p. 388; Laws 1939, c. 56, § 7, p. 245; C.S.Supp., 1941, § 48-709; R.S. 1943, § 48-620; Laws 1969, c. 584, § 49, p. 2375; Laws 1984, LB 746, § 1; Laws 1995, LB 7, § 47; Laws 2017, LB172, § 19.

48-621 Employment Security Administration Fund; Employment Security Special Contingent Fund; created; use; investment; federal funds; treatment.

(1) The administrative fund shall consist of the Employment Security Administration Fund and the Employment Security Special Contingent Fund. Each fund shall be maintained as a separate and distinct account in all respects, as follows:

(a) There is hereby created in the state treasury a special fund to be known as the Employment Security Administration Fund. All money credited to this fund is hereby appropriated and made available to the Commissioner of Labor. All money in this fund shall be expended solely for the purposes and in the amounts found necessary as defined by the specific federal programs, state statutes, and contract obligations for the proper and efficient administration of all programs of the Department of Labor. The fund shall consist of all money appropriated by this state and all money received from the United States of America or any agency thereof, including the Department of Labor and the Railroad Retirement Board, or from any other source for such purpose. Money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from money in such fund, and any proceeds realized from the sale or disposition of any equipment or supplies which may no longer be necessary for the proper administration of such programs shall also be credited to this fund. All money in the Employment Security Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other special funds in the state treasury. Any balances in this fund, except balances of money therein appropriated from the General Fund of this state, shall not lapse at any time. Fund balances shall be continuously available to the commissioner for expenditure consistent with the Employment Security Law. Any money in the Employment Security Administration Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act; and

(b) There is hereby created in the state treasury a special fund to be known as the Employment Security Special Contingent Fund. Any money in the Employment Security Special Contingent Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital

Expansion Act and the Nebraska State Funds Investment Act. All money collected under section 48-655 as interest on delinquent contributions, less refunds, shall be credited to this fund from the clearing account of the Unemployment Compensation Fund at the end of each calendar quarter. Such money shall not be expended or available for expenditure in any manner to permit substitution for, or a corresponding reduction in, federal funds which, in the absence of such money, would be available to finance expenditures for the administration of the unemployment insurance law. However, nothing in this section shall prevent the money in the Employment Security Special Contingent Fund from being used as a revolving fund to cover necessary and proper expenditures under the law for which federal funds have been duly requested but not yet received. Upon receipt of duly requested federal funds, covered expenditures shall be charged against such federal funds. Money in the Employment Security Special Contingent Fund may only be used by the Commissioner of Labor as follows:

(i) To replace within a reasonable time any money received by this state pursuant to section 302 of the federal Social Security Act, as amended, and required to be paid under section 48-622;

(ii) To meet special extraordinary and contingent expenses which are deemed essential for good administration but which are not provided in grants from the Secretary of Labor of the United States. No expenditures shall be made from this fund for this purpose except on written authorization by the Governor at the request of the Commissioner of Labor; and

(iii) To be transferred to the Job Training Cash Fund.

(2)(a) Money credited to the account of this state in the Unemployment Trust Fund by the United States Secretary of the Treasury pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except:

(i) For the payment of benefits pursuant to section 48-619; and

(ii) For the payment of expenses incurred for the administration of the Employment Security Law and public employment offices. Money requisitioned or used for this purpose must be pursuant to a specific appropriation by the Legislature. Any such appropriation law shall specify the amount and purposes for which the money is appropriated and must be enacted before expenses may be incurred and money may be requisitioned. Such appropriation is subject to the following conditions:

(A) Money may be obligated for a limited period ending not more than two years after the effective date of the appropriation law; and

(B) An obligated amount shall not exceed the aggregate amounts transferred to the account of this state pursuant to section 903 of the Social Security Act less the aggregate of amounts used by this state pursuant to the Employment Security Law and amounts charged against the amounts transferred to the account of this state.

(b) For purposes of subdivision (2)(a)(ii)(B) of this section, amounts appropriated for administrative purposes shall be charged against transferred amounts when the obligation is entered into.

(c) The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

(d) Money appropriated as provided in this subsection for the payment of administration expenses shall be requisitioned as needed for the payment of obligations incurred under such appropriation. Upon requisition, administration expenses shall be credited to the Employment Security Administration Fund from which such payments shall be made. Money so credited shall, until expended, remain a part of the Employment Security Administration Fund. If not immediately expended, credited money shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(e) Notwithstanding subdivision (2)(a) of this section, money credited with respect to federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the Legislature.

Source: Laws 1937, c. 108, § 13, p. 397; Laws 1939, c. 56, § 10, p. 248; Laws 1941, c. 94, § 10, p. 398; C.S.Supp., 1941, § 48-712; R.S. 1943, § 48-621; Laws 1947, c. 175, § 6, p. 574; Laws 1949, c. 163, § 5, p. 421; Laws 1957, c. 208, § 3, p. 729; Laws 1969, c. 584, § 50, p. 2375; Laws 1985, LB 339, § 17; Laws 1989, LB 305, § 4; Laws 1994, LB 1066, § 38; Laws 1995, LB 1, § 5; Laws 1996, LB 1072, § 3; Laws 1999, LB 608, § 2; Laws 2000, LB 953, § 6; Laws 2003, LB 197, § 1; Laws 2012, LB782, § 62; Laws 2012, LB946, § 9; Laws 2017, LB172, § 20.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-622.01 State Unemployment Insurance Trust Fund; created; use; investment; commissioner; powers and duties; cessation of state unemployment insurance tax; effect.

(1) There is hereby created in the state treasury a special fund to be known as the State Unemployment Insurance Trust Fund. All state unemployment insurance tax collected under sections 48-648 to 48-661, less refunds, shall be paid into the fund. Such money shall be held in trust for payment of unemployment insurance benefits. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that interest earned on money in the fund shall be credited to the Nebraska Training and Support Cash Fund at the end of each calendar quarter.

(2) The commissioner shall have the authority to determine when and in what amounts withdrawals from the State Unemployment Insurance Trust Fund for payment of benefits are necessary. Amounts withdrawn for payment of benefits shall be immediately forwarded to the Secretary of the Treasury of the United States of America to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding.

(3) If and when the state unemployment insurance tax ceases to exist as determined by the Governor, all money then in the State Unemployment Insurance Trust Fund less accrued interest shall be immediately transferred to the credit of the state's account in the Unemployment Trust Fund, any provision of law in this state relating to the deposit, administration, release, or

disbursement of money in the possession or custody of this state to the contrary notwithstanding. The determination to eliminate the state unemployment insurance tax shall be based on the solvency of the state's account in the Unemployment Trust Fund and the need for training of Nebraska workers. Accrued interest in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

Source: Laws 1994, LB 1337, § 4; Laws 1995, LB 7, § 48; Laws 2009, LB631, § 2; Laws 2011, LB378, § 23; Laws 2014, LB906, § 16; Laws 2014, LB997, § 1; Laws 2017, LB172, § 21.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-622.02 Nebraska Training and Support Cash Fund; created; use; investment; Administrative Costs Reserve Account; created; use.

(1) The Nebraska Training and Support Cash Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No expenditures shall be made from the Nebraska Training and Support Cash Fund without the written authorization of the Governor upon the recommendation of the commissioner. Any interest earned on money in the State Unemployment Insurance Trust Fund shall be credited to the Nebraska Training and Support Cash Fund.

(2) Money in the Nebraska Training and Support Cash Fund shall be used for (a) administrative costs of establishing, assessing, collecting, and maintaining state unemployment insurance tax liability and payments, (b) administrative costs of creating, operating, maintaining, and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training and Support Cash Fund, (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (d) recruitment of workers to Nebraska, (e) training new employees of expanding Nebraska businesses, (f) the costs of creating a common web portal for the attraction of businesses and workers to Nebraska, (g) developing and conducting labor availability and skills gap studies pursuant to the Sector Partnership Program Act, for which money may be transferred to the Sector Partnership Program Fund as directed by the Legislature, and (h) payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so require.

(3) The Administrative Costs Reserve Account is created within the Nebraska Training and Support Cash Fund. Money shall be allocated from the Nebraska Training and Support Cash Fund to the Administrative Costs Reserve Account in amounts sufficient to pay the anticipated administrative costs identified in subsection (2) of this section.

(4) The State Treasurer shall transfer two hundred fifty thousand dollars from the Nebraska Training and Support Cash Fund to the Sector Partnership Program Fund no later than July 15, 2016.

Source: Laws 1994, LB 1337, § 5; Laws 1995, LB 7, § 49; Laws 2009, LB631, § 3; Laws 2012, LB911, § 1; Laws 2014, LB997, § 2; Laws 2016, LB1110, § 13; Laws 2017, LB172, § 22.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Sector Partnership Program Act, see section 48-3401.

48-622.03 Nebraska Worker Training Board; created; members; chairperson; annual program plan; report.

(1) There is hereby created the Nebraska Worker Training Board. The board shall consist of seven members appointed and serving for terms determined by the Governor as follows:

- (a) A representative of employers in Nebraska;
- (b) A representative of employees in Nebraska;
- (c) A representative of the public;
- (d) The Commissioner of Labor or a designee;
- (e) The Director of Economic Development or a designee;
- (f) The Commissioner of Education or a designee; and

(g) The chairperson of the governing board of the Nebraska Community College Association or a designee.

(2) The chairperson of the Nebraska Worker Training Board shall be the representative of the employers in Nebraska.

(3) Beginning July 1, 2015, and annually thereafter, the board shall prepare an annual program plan for the upcoming fiscal year containing guidelines for the program financed by the Nebraska Training and Support Cash Fund. The guidelines shall include, but not be limited to, guidelines for certifying training providers, criteria for evaluating requests for the use of money under section 48-622.02, and guidelines for requiring employers to provide matching funds. The guidelines shall give priority to training that contributes to the expansion of the Nebraska workforce and increasing the pool of highly skilled workers in Nebraska.

(4) Beginning July 1, 2015, and annually thereafter, the board shall provide a report to the Governor covering the activities of the program financed by the Nebraska Training and Support Cash Fund for the previous fiscal year. The report shall contain an assessment of the effectiveness of the program and its administration.

Source: Laws 1994, LB1337, § 6; Laws 2009, LB631, § 4; Laws 2014, LB997, § 3; Laws 2017, LB172, § 23.

48-623 Benefits; how paid.

All benefits provided in the Employment Security Law shall be payable from the Unemployment Compensation Fund. All benefits shall be paid through employment offices in accordance with rules and regulations adopted and promulgated by the Commissioner of Labor.

Source: Laws 1937, c. 108, § 3, p. 374; Laws 1939, c. 56, § 2, p. 233; Laws 1941, c. 94, § 2, p. 381; C.S.Supp., 1941, § 48-703; R.S. 1943, § 48-623; Laws 1985, LB 339, § 19; Laws 2017, LB172, § 24.

48-624 Benefits; weekly benefit amount; calculation.

For any benefit year beginning on or after January 1, 2018:

(1) An individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02;

(2) For purposes of this section, an individual's average weekly wage shall equal the wages paid for insured work in the highest quarter of the base period divided by thirteen; and

(3) Any change in the weekly benefit amounts prescribed in this section or in the maximum annual benefit amount prescribed in section 48-626 shall be applicable for the calendar year following the annual determination made pursuant to section 48-121.02.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 233; Laws 1941, c. 94, § 2, p. 381; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-624; Laws 1945, c. 114, § 2, p. 371; Laws 1949, c. 163, § 1, p. 423; Laws 1951, c. 157, § 1, p. 630; Laws 1953, c. 168, § 1, p. 541; Laws 1955, c. 190, § 5, p. 542; Laws 1957, c. 209, § 1, p. 738; Laws 1959, c. 229, § 1, p. 802; Laws 1963, c. 291, § 1, p. 870; Laws 1965, c. 286, § 1, p. 819; Laws 1967, c. 299, § 1, p. 814; Laws 1969, c. 401, § 1, p. 1394; Laws 1971, LB 651, § 4; Laws 1972, LB 1391, § 1; Laws 1973, LB 333, § 1; Laws 1974, LB 775, § 1; Laws 1975, LB 475, § 1; Laws 1977, LB 337, § 1; Laws 1979, LB 183, § 1; Laws 1983, LB 524, § 1; Laws 1985, LB 216, § 1; Laws 1987, LB 446, § 1; Laws 1990, LB 315, § 1; Laws 1994, LB 286, § 2; Laws 1998, LB 225, § 1; Laws 2005, LB 739, § 5; Laws 2007, LB265, § 8; Laws 2017, LB172, § 25.

48-625 Benefits; weekly payment; how computed.

(1) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

(2) Any amount of unemployment compensation payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

The percentage of benefits and the percentage of extended benefits which are federally funded may be adjusted in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 234; Laws 1941, c. 94, § 2, p. 382; C.S.Supp.,1941, § 48-703; R.S. 1943, § 48-625; Laws 1949, c. 163, § 8, p. 424; Laws 1953, c.

167, § 5, p. 531; Laws 1980, LB 800, § 2; Laws 1982, LB 801, § 1; Laws 1983, LB 248, § 3; Laws 1986, LB 950, § 2; Laws 1987, LB 461, § 1; Laws 1995, LB 1, § 6; Laws 1999, LB 608, § 3; Laws 2005, LB 739, § 8; Laws 2015, LB271, § 5; Laws 2017, LB172, § 26.

48-626 Benefits; maximum annual amount; determination.

(1) For any benefit year beginning before October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under the circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount equal to the number of weeks for which he or she is or would have been disqualified had he or she filed a claim immediately after the separation, multiplied by his or her weekly benefit amount, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(2) For any benefit year beginning on or after October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (3) of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

(3) For purposes of determining the reduction of benefits described in subsection (2) of this section:

(a) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.12, his or her total benefit amount shall be reduced by:

(i) Two times his or her weekly benefit amount if he or she left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, which he or she does accept, which offers a reasonable expectation of betterment of wages or working conditions, or both, and for which he or she earns wages payable to him or her; or

(ii) Thirteen times his or her weekly benefit amount if he or she left work voluntarily without good cause for any reason other than that described in subdivision (3)(a)(i) of this section; and

(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.10, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.

(4) For purposes of sections 48-623 to 48-626, wages shall be counted as wages for insured work for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer by whom such wages were paid has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

(5) In order to determine the benefits due under this section and sections 48-624 and 48-625, each employer shall make reports, in conformity with reasonable rules and regulations adopted and promulgated by the commissioner, of the wages of any claimant. If any employer fails to make such a report within the time prescribed, the commissioner may accept the statement of such claimant as to his or her wages, and any benefit payments based on such statement of earnings, in the absence of fraud or collusion, shall be final as to the amount.

Source: Laws 1937, c. 108, § 3, p. 375; Laws 1939, c. 56, § 2, p. 235; Laws 1941, c. 94, § 2, p. 382; C.S.Supp., 1941, § 48-703; R.S. 1943, § 48-626; Laws 1945, c. 114, § 3, p. 372; Laws 1949, c. 163, § 9, p. 425; Laws 1959, c. 229, § 2, p. 802; Laws 1963, c. 291, § 2, p. 871; Laws 1967, c. 300, § 1, p. 816; Laws 1972, LB 1392, § 4; Laws 1980, LB 800, § 3; Laws 1985, LB 339, § 20; Laws 1986, LB 950, § 3; Laws 1995, LB 1, § 7; Laws 2017, LB172, § 27; Laws 2017, LB203, § 1.

48-627 Benefits; eligibility conditions; availability for work; requirements.

An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The commissioner may, by rule and regulation, waive or alter any of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the Employment Security Law;

(2) He or she has made a claim for benefits in accordance with section 48-629;

(3)(a) He or she is able to work and is available for work.

(b) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he or she is on vacation without pay during such week, if such vacation is not the result of his or her own action as distinguished from any collective action by a collective-bargaining agent or other action beyond his or her individual control, and regardless of whether he or she was notified of the vacation at the time of his or her hiring.

(c) An individual who is otherwise eligible shall not be deemed unavailable for work or failing to engage in an active work search solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subdivision, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

(d) Receipt of a non-service-connected total disability pension by a veteran at the age of sixty-five or more shall not of itself bar the veteran from benefits as not able to work.

(e) An otherwise eligible individual while engaged in a training course approved for him or her by the commissioner shall be considered available for work for the purposes of this section.

(f) An inmate sentenced to and in custody of a penal or custodial institution shall be considered unavailable for work for purposes of this section;

(4) He or she has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purpose of this subdivision (a) unless it occurs within the benefit year, which includes the week with respect to which he or she claims payment of benefits, (b) if benefits have been paid with respect thereto, or (c) unless the individual was eligible for benefits with respect thereto, as provided in sections 48-627, 48-627.01, 48-628, and 48-628.02 to 48-628.12, except for the requirements of this subdivision; and

(5) He or she is participating in reemployment services at no cost to such individual as directed by the commissioner, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by rule and regulation of the commissioner which is in compliance with section 303(j)(1) of the federal Social Security Act, unless the commissioner determines that:

(a) The individual has completed such services; or

(b) There is justifiable cause for the claimant's failure to participate in such services.

Source: Laws 1937, c. 108, § 4, p. 376; Laws 1939, c. 56, § 3, p. 235; Laws 1941, c. 94, § 3, p. 383; C.S.Supp.,1941, § 48-704; R.S. 1943, § 48-627; Laws 1945, c. 115, § 3, p. 382; Laws 1949, c. 163, § 10, p. 425; Laws 1953, c. 167, § 6, p. 531; Laws 1955, c. 190, § 6, p. 543; Laws 1957, c. 209, § 2, p. 739; Laws 1959, c. 230, § 1, p. 804; Laws 1961, c. 241, § 1, p. 717; Laws 1963, c. 291, § 3, p. 872; Laws 1963, c. 292, § 1, p. 875; Laws 1971, LB 651, § 5; Laws 1973, LB 372, § 1; Laws 1977, LB 509, § 4; Laws 1981, LB 470, § 2; Laws 1985, LB 339, § 21; Laws 1987, LB 446, § 2; Laws 1987, LB 469, § 1; Laws 1988, LB 1033, § 2; Laws 1995, LB 1, § 8; Laws 1995, LB 240, § 1; Laws 1998, LB 225, § 2; Laws 2005, LB 484, § 5; Laws 2005, LB 739, § 9; Laws 2010, LB1020, § 3; Laws 2017, LB172, § 28; Laws 2017, LB203, § 2.

48-627.01 Benefits; monetary eligibility; earned wages; adjustment.

(1) In addition to the requirements of section 48-627, for any benefit year beginning on or after January 1, 2018, an unemployed individual shall be monetarily eligible to receive benefits if the commissioner finds he or she has:

(a) Earned total wages for employment by employers equal to not less than four thousand one hundred forty-five dollars and seventy-four cents within his or her base period. Of such total wages, at least one thousand eight hundred fifty dollars shall have been paid in one quarter in his or her base period and eight hundred dollars shall have been paid in a second quarter of his or her base period; and

(b) Earned wages in insured work of at least six times his or her weekly benefit amount for the previous benefit year subsequent to filing the claim which establishes the previous benefit year.

(2) Beginning on January 1, 2019, and each January 1 thereafter, the amount which an individual is required to earn within his or her base period under subdivision (1)(a) of this section shall be adjusted annually. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the one-year period ending on the previous September 30. If such adjusted amount is not a whole dollar amount, the adjusted amount shall be rounded down to the nearest whole dollar amount.

(3) For purposes of this section:

(a) For the determination of monetary eligibility, wages paid within a base period shall not include wages from any calendar quarter previously used to establish a valid claim for benefits; and

(b) For benefit purposes, wages shall be counted as wages for insured work with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer, by whom such wages were paid, has satisfied the conditions of section 48-603 or subsection (3) of section 48-661 with respect to becoming an employer.

Source: Laws 2017, LB172, § 29.

48-628 Benefits; conditions disqualifying applicant; exceptions.

(1) An individual shall be disqualified for benefits for any week of unemployment in which the commissioner finds he or she has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the commissioner, to accept suitable work offered him or her, or to return to his or her customary self-employment, if any, and for the twelve weeks immediately thereafter. The total benefit amount to which he or she is then entitled shall be reduced by an amount equal to the number of weeks for which he or she has been disqualified by the commissioner.

(2) In determining whether or not any work is suitable for an individual, the commissioner shall consider the following:

(a) The degree of risk involved to the individual's health, safety, and morals;

(b) His or her physical fitness and prior training;

(c) His or her experience and prior earnings;

(d) His or her length of unemployment and prospects for securing local work in his or her customary occupation; and

(e) The distance of the available work from his or her residence.

(3) Notwithstanding any other provisions of the Employment Security Law, no work shall be deemed suitable and benefits shall not be denied under such law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Notwithstanding any other provisions in this section relating to failure to apply for or a refusal to accept suitable work, no otherwise eligible individual shall be denied benefits with respect to any week in which he or she is in training with the approval of the commissioner.

(5) No individual shall be disqualified for refusing to apply for available, full-time work or accept full-time work under subsection (1) of this section solely because such individual is seeking part-time work if the majority of the weeks of work in an individual's base period include part-time work. For purposes of this subsection, seeking only part-time work shall mean seeking less than full-time work having comparable hours to the individual's part-time work in the base period, except that the individual must be available for work at least twenty hours per week.

Source: Laws 1937, c. 108, § 5, p. 377; Laws 1939, c. 56, § 4, p. 236; C.S.Supp.,1941, § 48-705; R.S.1943, § 48-628; Laws 1945, c. 114, § 4, p. 372; Laws 1955, c. 190, § 7, p. 545; Laws 1961, c. 241, § 2, p. 718; Laws 1965, c. 287, § 1, p. 821; Laws 1967, c. 301, § 1, p. 818; Laws 1969, c. 402, § 1, p. 1395; Laws 1971, LB 651, § 6; Laws 1975, LB 370, § 1; Laws 1976, LB 819, § 1; Laws 1977, LB 509, § 5; Laws 1978, LB 128, § 1; Laws 1979, LB 581, § 3; Laws 1980, LB 800, § 4; Laws 1981, LB 470, § 3; Laws 1982, LB 801, § 2; Laws 1983, LB 248, § 4; Laws 1983, LB 432, § 1; Laws 1984, LB 746, § 2; Laws 1985, LB 339, § 22; Laws 1985, LB 341, § 1; Laws 1987, LB 276, § 1; Laws 1987, LB 469, § 2; Laws 1989, LB 605, § 1; Laws 1991, LB 498, § 1; Laws 1992, LB 878, § 1; Laws 1994, LB 286, § 3; Laws 1994, LB 913, § 1; Laws 1995, LB 1, § 9; Laws 1995, LB 77, § 2; Laws 1995, LB 291, § 1; Laws 1995, LB 759, § 1; Laws 1996, LB 633, § 1; Laws 1998, LB 225, § 3; Laws 2000, LB 953, § 7; Laws 2001, LB 192, § 8; Laws 2002, LB 921, § 2; Laws 2005, LB 484, § 6; Laws 2005, LB 739, § 10; Laws 2010, LB1020, § 4; Laws 2017, LB172, § 30; Laws 2017, LB203, § 3.

48-628.01 Benefits; disqualification; receipt of other unemployment benefits.

An individual shall be disqualified for benefits for any week with respect to which, or a part of which, he or she has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the

United States. If the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, the disqualification provided in this section shall not apply.

Source: Laws 2017, LB172, § 31.

48-628.02 Benefits; disqualification; receipt of other remuneration.

(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:

(a) Wages in lieu of notice or a dismissal or separation allowance;

(b) Vacation leave pay, including that received in a lump sum or upon separation from employment;

(c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;

(d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or

(e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.

(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.

(3) Military service-connected disability compensation payable under 38 U.S.C. chapter 11 and primary insurance benefits payable under Title II of the Social Security Act, as amended, or similar payments under any act of Congress shall not be deemed to be disqualifying or deductible from the benefit amount.

(4) No deduction shall be made for the part of any retirement pension which represents return of payments made by the individual. In the case of a transfer by an individual or his or her employer of an amount from one retirement plan to a second qualified retirement plan under the Internal Revenue Code, the amount transferred shall not be deemed to be received by the claimant until actually paid from the second retirement plan to the claimant.

(5) No deduction shall be made for any benefit received under a supplemental unemployment benefit plan described in subdivision (35)(g) of section 48-602.

(6) No deduction shall be made for any supplemental payments received by a claimant under the provisions of subsection (b) of section 408 of Title IV of the Veterans' Readjustment Assistance Act of 1952.

Source: Laws 2017, LB172, § 32.

48-628.03 Benefits; disqualification; student.

(1) An individual shall be disqualified for benefits for any week of unemployment if such individual is a student unless the major portion of his or her wages for insured work during his or her base period was for services performed

while attending school. Attendance at a school, college, or university for training purposes, under a plan approved by the commissioner for such individual, shall not be disqualifying.

(2) For purposes of this section, student means an individual who is registered for full-time status at and regularly attends an established school, college, university, training facility, or other educational institution or who is on vacation during or between two successive academic years or terms.

Source: Laws 2017, LB172, § 33.

48-628.04 Benefits; disqualification; alien.

(1) An individual shall be disqualified for unemployment benefits for any week if the services upon which such benefits are based are performed by an alien. This section shall apply unless such alien:

(a) Is an individual who was lawfully admitted for permanent residence at the time such services were performed;

(b) Was lawfully present for purposes of performing such services; or

(c) Was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5).

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

Source: Laws 2017, LB172, § 34.

48-628.05 Benefits; disqualification; sports or athletic events.

An individual shall be disqualified for unemployment benefits for any week if substantially all the services upon which such benefits are based consist of participating in sports or athletic events or training or preparing to so participate, if:

(1) Such week of unemployment begins during the period between two successive sport seasons or similar periods;

(2) Such individual performed such services in the first of such seasons or similar periods; and

(3) There is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

Source: Laws 2017, LB172, § 35.

48-628.06 Benefits; disqualification; educational institution.

An individual shall be disqualified for benefits for any week of unemployment if claimed benefits are based on services performed:

(1) In an instructional, research, or principal administrative capacity for an educational institution, if:

(a) Such week commences during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular, but not successive, terms during such period;

(b) Such individual performs such services in the first of such academic years or terms; and

(c) There is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) In any other capacity for an educational institution, if such week commences during a period between two successive academic years or terms, such individual performs such services in the first of such academic years or terms, and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms. If benefits are denied to any individual for any week under this subdivision and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision;

(3) In any capacity described in subdivision (1) or (2) of this section in an educational institution while in the employ of an educational service agency, and such individual shall be disqualified as specified in subdivisions (1) and (2) of this section. As used in this subdivision, educational service agency means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing services to one or more educational institutions;

(4) In any capacity described in subdivision (1) or (2) of this section in an educational institution if such services are provided to or on behalf of the educational institution while in the employ of an organization or entity described in section 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified as specified in subdivisions (1), (2), and (3) of this section; and

(5) In any capacity described in subdivision (1) or (2) of this section if such week commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

Source: Laws 2017, LB172, § 36.

48-628.07 Benefits; training.

(1) Notwithstanding any other provisions of the Employment Security Law, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1). Such an individual shall not be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment or because of the application to any such week in training of provisions of the Employment Security Law, or any applicable federal

unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this section, suitable employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal Trade Act of 1974, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for purposes of such act.

Source: Laws 2017, LB172, § 37.

48-628.08 Benefits; disqualification; leave of absence.

An individual shall be disqualified for benefits for any week during which the individual is on a leave of absence.

Source: Laws 2017, LB172, § 38.

48-628.09 Benefits; disqualification; labor dispute.

(1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that his or her total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises where he or she is or was last employed. This section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in, financing, or directly interested in the labor dispute which caused the stoppage of work; and

(b) He or she does not belong to a grade or class of workers that includes members who, immediately before the commencement of the stoppage, were employed at the premises where the stoppage occurs and who are participating, financing, or directly interested in the dispute.

(2) If in any case, separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for purposes of this section, be deemed to be a separate factory, establishment, or other premises.

Source: Laws 2017, LB172, § 39.

48-628.10 Benefits; disqualification; discharge for misconduct.

(1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify

such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.

Source: Laws 2017, LB172, § 40.

48-628.11 Benefits; disqualification; multiple disqualifications for prohibited acts by employee.

An individual shall be disqualified for benefits for any week of unemployment benefits or for waiting week credit if he or she has been disqualified from the receipt of benefits pursuant to section 48-663.01 two or more times in the five-year period immediately prior to filing his or her most recent claim. This section shall not apply if the individual has repaid in full all overpayments established in conjunction with the disqualifications assessed under section 48-663.01 during that five-year period.

Source: Laws 2017, LB172, § 41.

48-628.12 Benefits; disqualification; leave work voluntarily without good cause.

An individual shall be disqualified for benefits:

(1) For any benefit year beginning before October 1, 2018:

(a) For the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for the thirteen weeks immediately thereafter. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so; or

(b) For the week in which he or she has left work voluntarily for the sole purpose of accepting previously secured, permanent, full-time, insured work, if so found by the commissioner, and for the two weeks immediately thereafter. For this subdivision to apply, such work shall:

(i) Be accepted by the individual;

(ii) Offer a reasonable expectation of betterment of wages or working conditions, or both; and

(iii) Enable the individual to earn wages payable to him or her; or

(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions. For purposes of this subdivision, a temporary employee of a temporary help firm has left work voluntarily without good cause if the temporary employee does not contact the temporary help firm for reassignment upon completion of an assignment and the temporary employee has been advised by the temporary help firm of his or her obligation to contact the temporary help firm upon completion of assignments and has been

advised by the temporary help firm that the temporary employee may be denied benefits for failure to do so.

Source: Laws 2017, LB172, § 42.

48-628.13 Good cause for voluntarily leaving employment, defined.

Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:

(1) An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;

(2) An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;

(3) An individual left his or her employment to accompany his or her spouse to the spouse's employment in a different city or new military duty station;

(4) An individual left his or her employment because his or her employer required the employee to relocate;

(5)(a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:

(i)(A) The quit occurred within thirty days immediately prior to the established termination date of the job which the individual voluntarily leaves, (B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits, (C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and (D) the worker had worked at least twenty days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or

(ii)(A) The construction worksite of the job which the worker quit was more than fifty miles from his or her place of residence, (B) the new construction job was fifty or more miles closer to his or her residence than the job which he or she quit, and (C) the worker actually worked twenty days or more at the new job unless the new job was terminated by a contract cancellation.

(b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under section 48-628.10 or 48-628.12;

(6) An individual accepted a voluntary layoff to avoid bumping another worker;

(7) An individual left his or her employment as a result of being directed to perform an illegal act;

(8) An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;

(9) An individual left his or her employment because of unsafe working conditions;

(10) An individual left his or her employment to attend school; or

(11) Equity and good conscience demand a finding of good cause.

Source: Laws 2005, LB 739, § 7; R.S.1943, (2010), § 48-628.01; Laws 2017, LB172, § 43.

48-628.14 Extended benefits; terms, defined; weekly extended benefit amount; payment of emergency unemployment compensation.

(1) As used in the Employment Security Law, unless the context otherwise requires:

(a) Extended benefit period means a period which begins with the third week after a week for which there is a state “on” indicator and ends with either of the following weeks, whichever occurs later: (i) The third week after the first week for which there is a state “off” indicator or (ii) the thirteenth consecutive week of such period, except that no extended benefit period may begin by reason of a state “on” indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(b) Extended benefits means benefits, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85, payable to an individual for weeks of unemployment in his or her eligibility period;

(c) Eligibility period of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period. Notwithstanding any other provision of the Employment Security Law, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year multiplied by the individual’s weekly benefit amount for extended benefits;

(d) Exhaustee means an individual who, with respect to any week of unemployment in his or her eligibility period:

(i)(A) Has received, prior to such week, all of the regular benefits that were available to him or her under the Employment Security Law of this state or under the unemployment insurance law of any other state, including dependents’ allowances and benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85, in his or her current benefit year that includes such week, except for the purposes of this subdivision, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment or both wages and employment that were not considered in the original monetary determination in his or her benefit year, he or she may subsequently be determined to be entitled to added regular benefits; or (B) his or her benefit year having expired prior to such week, has no, or insufficient, wages or employment or both wages and employment on the basis of which he or she could establish a new benefit year that would include such week;

(ii) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(iii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law, he or she is considered an exhaustee;

(e) Rate of insured unemployment means the percentage, used by the commissioner in determining whether there is a state “on” or state “off” indicator, derived by dividing (i) the average weekly number of individuals filing claims for regular compensation under the Employment Security Law for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the commissioner on the basis of his or her reports to the United States Secretary of Labor, by (ii) the average monthly employment covered under the Employment Security Law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(f) Regular benefits means benefits payable to an individual under the Employment Security Law of this state or under the unemployment insurance law of any other state, including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85, other than extended benefits;

(g) State “off” indicator means a week for which the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, neither subdivision (1)(h)(i) or (1)(h)(ii) of this section was satisfied; and

(h) State “on” indicator means a week for which the commissioner determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under the Employment Security Law: (i) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent or (ii) equaled or exceeded six percent.

(2) Except when the result would be inconsistent with the other provisions of this section, as provided in the rules and regulations of the commissioner, the provisions of the Employment Security Law which apply to claims for or payment of regular benefits shall apply to claims for and payment of extended benefits. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds that with respect to such week:

(a) Such individual is an exhaustee;

(b) Such individual has satisfied the requirements of the Employment Security Law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits;

(c) Sections 48-628.15 and 48-628.16 do not apply; and

(d) Such individual has been paid wages for insured work during the individual's base period equal to at least one and one-half times the wages paid in that calendar quarter of the individual's base period in which such wages were highest.

(3) The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year. The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under the Employment Security Law in his or her applicable benefit year; or

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under the Employment Security Law for a week of total unemployment in the applicable benefit year.

(4) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement. Computations required to determine the rate of insured unemployment shall be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor. Any amount of extended benefits payable to any individual for any week, if not an even dollar amount, shall be rounded to the next lower full dollar amount.

(5) Notwithstanding any other provision of the Employment Security Law, during an extended benefit period, the Governor may provide for the payment of emergency unemployment compensation pursuant to Public Law 110-252, as amended, or any substantially similar federal unemployment compensation paid entirely from federal funds to individuals prior to the payment of extended benefits pursuant to this section and sections 48-628.15 and 48-628.16.

Source: Laws 1971, LB 651, § 7; Laws 1972, LB 1392, § 5; Laws 1977, LB 509, § 6; Laws 1979, LB 581, § 4; Laws 1981, LB 470, § 4; Laws 1982, LB 801, § 3; Laws 1984, LB 746, § 3; Laws 1985, LB 339, § 23; Laws 2010, LB1055, § 1; R.S.1943, (2010), § 48-628.02; Laws 2017, LB172, § 44.

48-628.15 Extended benefits; eligibility; seek or accept suitable work; suitable work, defined.

(1) An individual shall be ineligible for payment of extended benefits for any week of unemployment in his or her eligibility period if the commissioner finds that during such period (a) he or she failed to accept any offer of suitable work or failed to apply for any suitable work to which he or she was referred by the commissioner or (b) he or she failed to actively engage in seeking work as prescribed under subsection (5) of this section.

(2) Any individual who has been found ineligible for extended benefits by reason of subsection (1) of this section shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he or she (a) has been employed in each of four subsequent weeks,

whether or not consecutive, and (b) has earned remuneration equal to not less than four times the extended weekly benefit amount.

(3) For purposes of this section, the term suitable work means, with respect to any individual, any work which is within such individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of the individual's average weekly benefit amount payable to him or her during his or her applicable benefit year, plus the amount, if any, of supplemental unemployment compensation benefits as defined in section 501(c)(17)(D) of the Internal Revenue Code payable to such individual for such week. Such work must also pay wages equal to the higher of the federal minimum wage or the applicable state or local minimum wage. No individual shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitability contained in this subsection if (a) the position was not offered to such individual in writing or was not listed with the employment service, (b) such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 48-628, to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subsection, or (c) the individual furnishes satisfactory evidence to the commissioner that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 48-628 without regard to the definition specified by this subsection.

(4) Notwithstanding the provisions of subsection (3) of this section to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions set forth under subsection (3) of section 48-628, nor shall an individual be denied benefits if such benefits would not be deniable by reason of subsection (4) of section 48-628.

(5) For the purposes of subsection (1) of this section, an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week and the individual furnishes tangible evidence that he or she has engaged in such effort during such week.

(6) The state employment service shall refer any claimant entitled to extended benefits under this section to any suitable work which meets the criteria prescribed in subsection (3) of this section.

(7) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if such individual has been disqualified for benefits under section 48-628, 48-628.10, or 48-628.12 unless such individual has earned wages for services performed in subsequent employment in an amount not less than four hundred dollars.

Source: Laws 1981, LB 470, § 5; Laws 1982, LB 801, § 4; Laws 1993, LB 47, § 1; Laws 1995, LB 1, § 10; Laws 1995, LB 574, § 53; Laws 2000, LB 953, § 8; Laws 2010, LB1055, § 2; R.S.1943, (2010), § 48-628.03; Laws 2017, LB172, § 45.

48-628.16 Extended benefits; payments not required; when.

(1) Except as provided in subsection (2) of this section, payment of extended benefits shall not be made to any individual for any week if (a) extended

benefits would, but for this section, have been payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and (b) an extended benefit period is not in effect for such week in such state.

(2) Subsection (1) of this section shall not apply with respect to the first two weeks for which extended benefits are payable, determined without regard to this section, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the benefit year.

Source: Laws 1981, LB 470, § 6; R.S.1943, (2010), § 48-628.04; Laws 2017, LB172, § 46.

48-628.17 Additional unemployment benefits; conditions; amount; when benefits payable.

(1) In addition to any other unemployment benefits to which an individual is entitled under the Employment Security Law, an individual who has exhausted all regular unemployment benefits for which he or she has been determined eligible shall continue to be eligible for up to twenty-six additional weeks of unemployment benefits if such individual:

(a)(i) Was involuntarily separated from employment as a result of a permanent reduction of operations at the individual's place of employment or (ii) is unemployed as the result of a separation from a declining occupation;

(b) Is enrolled and making satisfactory progress in a (i) training program approved for him or her by the commissioner or (ii) job training program authorized under the federal Workforce Innovation and Opportunity Act, as amended;

(c) Is receiving training which is preparing the individual for entry into a high-demand occupation;

(d) Is enrolled in training no later than the end of the benefit year established with respect to the separation that makes the individual eligible for the training benefit. Individuals shall be notified of the enrollment requirement at the time of their initial determination of eligibility for regular benefits; and

(e) Is not receiving similar stipends or other training allowances for nontraining costs. Similar stipend means an amount provided under a program with similar aims, such as providing training to increase employability, and in approximately the same amounts.

(2) The amount of unemployment benefits payable to an individual for a week of unemployment under this section shall be equal to the amount of unemployment benefits which he or she has been determined eligible for under section 48-624 less any deductions or offsets authorized under the Employment Security Law.

(3) If an individual begins to receive unemployment benefits under this section while enrolled in a training program described in subsection (1) of this section during a benefit year, such individual shall continue to receive such benefits so long as he or she continues to make satisfactory progress in such training program, except that such benefits shall not exceed twenty-six times the individual's weekly benefit amount for the most recent benefit year as determined under section 48-624.

(4) No benefits shall be payable under this section until the individual has exhausted all (a) regular unemployment benefits, (b) extended benefits as defined in subdivision (1)(b) of section 48-628.14, and (c) unemployment benefits paid entirely from federal funds to which he or she is entitled, including, but not limited to, trade readjustment assistance, emergency unemployment compensation, or other similar federally funded unemployment benefits.

(5) For purposes of this section, regular unemployment benefits means all unemployment benefits for which an individual is eligible payable under sections 48-624 to 48-626, extended unemployment benefits payable under section 48-628.14, and any unemployment benefits funded solely by the federal government.

Source: Laws 2010, LB1020, § 5; R.S.1943, (2010), § 48-628.05; Laws 2017, LB172, § 47.

48-629 Claims; rules and regulations for filing.

Claims for benefits shall be made in accordance with such rules and regulations as the commissioner may adopt and promulgate. Each employer shall post and maintain printed statements of such rules and regulations in places readily accessible to individuals in his or her service and shall make available to each such individual, at the time he or she becomes unemployed, a printed statement of such rules and regulations. Such printed statements shall be supplied by the commissioner to each employer without cost to the employer.

Source: Laws 1937, c. 108, § 6, p. 378; Laws 1941, c. 94, § 4, p. 384; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-629; Laws 1985, LB 339, § 24; Laws 2017, LB172, § 48.

48-629.01 Claims; advisement to claimant; amounts deducted; how treated.

(1) An individual filing a new claim for unemployment compensation shall, at the time of the filing of such claim, be advised that:

- (a) Unemployment compensation is subject to federal and state income tax;
- (b) Requirements exist pertaining to estimated tax payments;
- (c) The individual may elect to have federal income tax withheld from the individual's payment of unemployment compensation at the amount specified in the Internal Revenue Code;
- (d) The individual may elect to have state income tax withheld from the individual's payment of unemployment compensation at the rate of five percent; and
- (e) The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation for federal income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the federal Internal Revenue Service as a payment of income tax. Amounts deducted and withheld from unemployment compensation for state income tax purposes shall remain in the Unemployment Compensation Fund until transferred to the Department of Revenue as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amounts required to be withheld under the Employment Security Law.

Source: Laws 1996, LB 1072, § 2; Laws 2017, LB172, § 49.

48-630 Claims; determinations by adjudicator.

(1) A determination upon a claim filed pursuant to section 48-629 shall be made promptly by a representative designated by the commissioner, hereinafter referred to as an adjudicator.

(2) A determination shall include a statement as to whether and in what amount claimant is entitled to benefits for the week with respect to which the determination is made. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 48-627.01, and, if so, the first day of the benefit year, his or her weekly benefit amount, and the maximum total amount of benefits payable to him or her with respect to such benefit year. Whenever any claim involves the application of the provisions of section 48-628.09, the adjudicator shall promptly transmit his or her full findings of fact, with respect to such section, to the commissioner, who, on the basis of the evidence submitted and such additional evidence as he or she may require, shall affirm, modify, or set aside such findings of fact and transmit to the adjudicator a decision upon the issue involved under such section, which shall be deemed to be the decision of the adjudicator. All claims arising out of the same alleged labor dispute may be considered at the same time.

(3) In the event a claim is denied, a determination shall state the reasons therefor. Regardless of the outcome, the parties shall be promptly notified of the determination, together with the reasons therefor, and such determination shall be deemed to be the final decision on the claim, unless an appeal is filed with the department in the manner prescribed in section 48-634.

(4) Any benefits for which a claimant has been found eligible shall not be withheld because of an appeal filed under section 48-634, and such benefits shall be paid until a hearing officer has rendered a decision modifying or reversing the determination allowing such benefits if the claimant is otherwise eligible. Any benefits received by any person to which he or she had been found not entitled, under a redetermination or decision pursuant to sections 48-630 to 48-638, shall be treated as erroneous payments in accordance with section 48-665.

Source: Laws 1937, c. 108, § 6, p. 379; Laws 1941, c. 94, § 4, p. 384; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-630; Laws 1969, c. 403, § 1, p. 1399; Laws 1972, LB 1392, § 6; Laws 1985, LB 338, § 1; Laws 1995, LB 1, § 11; Laws 1995, LB 240, § 2; Laws 2012, LB1058, § 1; Laws 2017, LB172, § 50.

48-631 Claims; redetermination; time; notice; appeal.

(1) The adjudicator may reconsider a determination if he or she finds that:

(a) An error in computation or identity has occurred in connection with the determination;

(b) Wages of the claimant pertinent to such determination, but not considered in connection therewith, have been newly discovered; or

(c) Benefits have been allowed or denied or the amount of benefits has been set based on misrepresentations of fact.

(2) No such redetermination shall be made after two years from the date of the original determination.

(3) Notice of any redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in section 48-630 with respect to notice of an original determination.

(4) If the amount of benefits is increased or decreased by a redetermination, an appeal therefrom may be filed solely with respect to the matters involved in such increase or decrease in the manner and subject to the limitations provided in section 48-634. Subject to the same limitations and for the same reasons, the Commissioner of Labor may reconsider the determination, in any case in which the final decision has been rendered by a hearing officer or a court, and may apply to the hearing officer or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination is issued, such appeal, unless withdrawn, shall be treated as an appeal of the redetermination.

Source: Laws 1941, c. 94, § 4, p. 385; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-631; Laws 1961, c. 238, § 5, p. 711; Laws 2011, LB11, § 1; Laws 2017, LB172, § 51.

48-632 Claims; determination; notice; persons entitled; employer; rights; duties.

(1) Notice of a determination upon a claim shall be promptly given to the claimant by electronic notice or by mailing such notice to his or her last-known address. A claimant shall elect to receive either electronic notice or mailed notice when he or she files a new claim or establishes a new benefit year. A claimant may change his or her election at any time. In addition, notice of any determination, together with the reasons therefor, shall be promptly given in the same manner to any employer from whom the claimant received wages on or after the first day of the base period for his or her most recent claim if such employer has indicated prior to the determination, in such manner as required by rule and regulation of the commissioner, that such individual may be ineligible or disqualified under any provision of the Employment Security Law. An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.

(2) If the employer provided information pursuant to subsection (6) of section 48-652 on the claim establishing the previous benefit year but did not receive a determination because of no involvement of base period wages and there are wages from that employer in the base period for the most recent claim, the employer shall be provided the opportunity to provide new information that such individual may be ineligible or disqualified under any provision of the Employment Security Law on the current claim. This subsection shall not apply

to employers who did not receive a determination because the separation was determined to result from a lack of work.

(3) If an employer fails to provide information to the department within the time period specified in subsection (1) of this section, the employer shall forfeit any appeal rights otherwise available pursuant to section 48-634.

Source: Laws 1941, c. 94, § 4, p. 385; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-632; Laws 1985, LB 339, § 25; Laws 2012, LB1058, § 2; Laws 2017, LB172, § 52; Laws 2017, LB203, § 4.

48-633 Repealed. Laws 2012, LB 1058, § 17.

48-634 Administrative appeal; notice; time allowed; hearing; parties.

(1) The claimant or any other party entitled to notice of a determination as provided in section 48-632 may file an appeal from such determination with the department.

(2) An appeal must be in writing or in accordance with rules and regulations adopted and promulgated by the commissioner and must be delivered and received within twenty days after the date of mailing of the notice of determination to the parties' last-known address or, if such notice is not mailed, after the date of delivery of such notice of determination, except that for good cause shown an appeal filed outside the prescribed time period may be heard.

(3) In accordance with section 303 of the federal Social Security Act, 42 U.S.C. 503, the commissioner shall provide the opportunity for a fair hearing before an impartial hearing officer on each appeal.

(4) Unless the appeal is withdrawn, a hearing officer, after affording the parties reasonable opportunities for a fair hearing, shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination.

(5) If an appeal involves a question as to whether services were performed by the claimant in employment or for an employer, a hearing officer shall give special notice of such issue and of the pendency of the appeal to the employer and to the commissioner, both of whom shall be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such question.

(6) The parties shall be promptly notified of a hearing officer's decision and shall be furnished with a copy of the decision and the findings and conclusions in support of the decision.

(7) The commissioner shall be a party entitled to notice in any proceeding involving a claim for benefits before a hearing officer.

Source: Laws 1941, c. 94, § 4, p. 386; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-634; Laws 1979, LB 328, § 1; Laws 1995, LB 239, § 1; Laws 2001, LB 192, § 10; Laws 2012, LB1058, § 3; Laws 2017, LB172, § 53.

48-635 Administrative appeals; procedure; rules of evidence; record.

(1) The presentation of disputed claims and the conduct of hearings and appeals shall be in accordance with the rules and regulations adopted and promulgated by the commissioner for determining the rights of the parties,

whether or not such rules and regulations conform to common-law or statutory rules of evidence and other technical rules of procedure.

(2) A full and complete record shall be kept of all proceedings in connection with the disputed claims.

(3) All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Source: Laws 1937, c. 108, § 6, p. 380; Laws 1941, c. 94, § 4, p. 387; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-635; Laws 1985, LB 339, § 26; Laws 2017, LB172, § 54.

48-636 Administrative appeals; decisions; conclusiveness.

Except insofar as reconsideration of any determination is had under sections 48-630 to 48-632, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination which has become final, or in a decision on appeal which has become final, shall be conclusive for all the purposes of the Employment Security Law as between the Commissioner of Labor, the claimant, and all employers who had notice of such determination, redetermination, or decision. Subject to appeal proceedings and judicial review as provided in sections 48-634 to 48-644, any determination, redetermination, or decision as to rights to benefits shall be conclusive for all the purposes of such law and shall not be subject to collateral attack by any employer.

Source: Laws 1941, c. 94, § 4, p. 387; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-636; Laws 1953, c. 167, § 7, p. 533; Laws 1985, LB 339, § 27; Laws 2012, LB1058, § 4.

48-637 Administrative appeals; decisions; effect in subsequent proceedings; certification of questions.

The final decisions of a hearing officer and the principles of law declared by him or her in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a hearing officer or by a court of competent jurisdiction, shall be binding upon the commissioner and any adjudicator in subsequent proceedings which involve similar questions of law, except that if in connection with any subsequent proceeding the commissioner or an adjudicator has serious doubt as to the correctness of any principle so declared, he or she may certify his or her findings of fact in such case together with the question of law involved to a hearing officer who, after giving notice and reasonable opportunity for hearing upon the law to all parties to such proceedings, shall thereupon certify to the commissioner, such adjudicator, and such parties his or her answer to the question submitted. If the question thus certified to a hearing officer arises in connection with a claim for benefits, a hearing officer in his or her discretion may remove to himself or herself the entire proceedings on such claim and, after proceeding in accordance with the requirements of sections 48-634 to 48-643 with respect to proceedings before a hearing officer, shall render his or her decision upon the entire claim.

Source: Laws 1941, c. 94, § 4, p. 387; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-637; Laws 2012, LB1058, § 5; Laws 2017, LB172, § 55.

48-638 Appeal to district court; procedure.

(1) Any party to the proceedings before a hearing officer may appeal the hearing officer's decision by filing a petition (a) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides, (b) in any district court of this state upon which the parties may agree, or (c) if neither subdivision (1)(a) or (b) of this section applies, then in the district court of Lancaster County.

(2) If the commissioner is not the petitioning party, he or she shall be a party defendant in every appeal. Such appeal shall otherwise be governed by the Administrative Procedure Act.

(3) An appeal may be taken from the decision of the district court to the Court of Appeals in accordance with the Administrative Procedure Act.

(4) No bond shall be required as a condition of initiating a proceeding for judicial review or entering an appeal from the decision of the court upon such review. Costs which would be otherwise taxed to a claimant shall be taxed in such courts to the commissioner regardless of the result of the action unless justice and equity otherwise require. Notwithstanding any general statute to the contrary, no filing fee shall be charged by a hearing officer or by the clerk of any court for any service required by sections 48-634 to 48-638.

(5) In any proceeding for judicial review pursuant to this section, the commissioner may be represented by any qualified attorney employed and designated by the commissioner for that purpose or, at the commissioner's request, by the Attorney General.

Source: Laws 1941, c. 94, § 4, p. 388; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-638; Laws 1945, c. 115, § 4, p. 384; Laws 1957, c. 208, § 4, p. 731; Laws 1979, LB 328, § 2; Laws 1986, LB 950, § 4; Laws 1988, LB 352, § 85; Laws 1996, LB 1072, § 4; Laws 2017, LB172, § 56.

Cross References

Administrative Procedure Act, see section 84-920.

48-640 Repealed. Laws 2017, LB172, § 89.

48-641 Repealed. Laws 2017, LB172, § 89.

48-642 Repealed. Laws 2017, LB172, § 89.

48-643 Witnesses; fees.

Witnesses subpoenaed pursuant to sections 48-629 to 48-644 shall be allowed fees at a rate fixed by the commissioner, not to exceed the amount allowed for witness fees in district court. Such fees shall be deemed an expense of administering the Employment Security Law.

Source: Laws 1937, c. 108, § 6, p. 380; Laws 1941, c. 94, § 4, p. 389; C.S.Supp.,1941, § 48-706; R.S.1943, § 48-643; Laws 1985, LB 339, § 29; Laws 2017, LB172, § 57.

Cross References

For witness fees in district court, see section 33-139.

48-644 Benefits; payment; appeal not a supersedeas; reversal; effect.

(1) Benefits shall be promptly paid in accordance with a determination or redetermination.

(2) If pursuant to a determination or redetermination benefits are payable in any amount as to which there is no dispute, such amount of benefits shall be promptly paid regardless of any appeal.

(3) The commencement of a proceeding for judicial review pursuant to section 48-638 shall not operate as a supersedeas or stay.

(4) If an employer is otherwise entitled to noncharging of benefits pursuant to sections 48-630 and 48-652, and a decision allowing benefits is finally reversed, no employer's account shall be charged with benefits paid pursuant to the erroneous determination, and benefits shall not be paid for any subsequent weeks of unemployment involved in such reversal.

Source: Laws 1941, c. 94, § 4, p. 389; C.S.Supp.,1941, § 48-706; R.S. 1943, § 48-644; Laws 1972, LB 1392, § 7; Laws 2012, LB1058, § 6; Laws 2017, LB172, § 58.

48-645 Benefits; waiver, release, and deductions void; discrimination in hire or tenure unlawful; penalty.

(1) Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under the Employment Security Law shall be void.

(2) Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under such law from such employer, shall be void.

(3) No employer shall:

(a) Directly or indirectly make, require, or accept any deduction from wages to finance the employer's contributions required from him or her;

(b) Require or accept any waiver of any right hereunder by any individual in his or her employ;

(c) Discriminate in regard to the hiring, rehiring, or tenure of work of any individual on account of any claim made by such individual for benefits under the Employment Security Law; or

(d) Obstruct or impede the filing of claims for benefits in any manner.

(4) Any employer, officer, or agent of an employer who violates any provision of this section shall be guilty of a Class II misdemeanor.

Source: Laws 1937, c. 108, § 15, p. 399; Laws 1941, c. 94, § 11, p. 399; C.S.Supp.,1941, § 48-714; R.S.1943, § 48-645; Laws 1977, LB 40, § 292; Laws 1985, LB 339, § 30; Laws 2017, LB172, § 59.

48-646 Repealed. Laws 2017, LB172, § 89.

48-647 Benefits; assignments void; exemption from legal process; exception; child support obligations; Supplemental Nutrition Assistance Program benefits overissuance; disclosure required; collection.

(1)(a) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for

the collection of all debts, except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed.

(b) Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void. Such right or claim to contributions or money shall be exempt from levy, execution, attachment, or any other remedy provided for the collection of debt.

(c) Any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (h) of this subsection. If such individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the Department of Health and Human Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subdivision is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Department of Health and Human Services and such individual owing the child support obligations to have a specified amount withheld if such agreement is submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (2)(i) of this section, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Department of Health and Human Services.

(d) Any amount deducted and withheld under subdivision (b) or (g) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Department of Health and Human Services in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment Security Law, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection shall apply only if appropriate arrangements have been made for reimbursement by the Department of Health and Human Services for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the department.

(g) The Department of Health and Human Services and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The collection system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the Department of Health and Human Services of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney, the authorized attorney, or the Department of Health and Human Services has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the Department of Health and Human Services shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Health and Human Services shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance with the Administrative Procedure Act. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of the hearing; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv)(A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the Department of Health and Human Services determines that the assignment should go into effect, (C) in cases in which the court has ordered income withholding for child support pursuant to subsection (1) of section 43-1718.01, or (D) in cases in which the court has ordered income withholding for child support pursuant to section 43-1718.02 and the case subsequently becomes one in which child support collection services are being provided under Title IV-D of the federal Social Security Act, as amended, the Department of Health and Human Services shall certify to the commissioner the amount to be withheld for child support obligations from the individual's unemployment compensation. Such amount shall not exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy a debt of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the federal Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The Department of Health and Human Services and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2)(g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include only obligations which are being enforced pursuant to a plan described in section 454 of the federal Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the federal Social Security Act.

(i) For purposes of this subsection, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law. For purposes of this subdivision, the chief executive officer of the Department of Health and Human Services shall be deemed an authorized official pursuant to order of a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

(j) Nothing in this subsection shall be construed to authorize withholding from unemployment compensation of any support obligation other than child support obligations.

(3)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes an uncollected overissuance, as defined in 7 U.S.C. 2022(c)(1) as such section existed on January 1, 2017, of Supplemental Nutrition Assistance Program benefits, if not otherwise known or disclosed to the state Supplemental Nutrition Assistance Program agency. The commissioner shall notify the state Supplemental Nutrition Assistance Program agency enforcing such obligation of any individual disclosing that he or she owes an uncollected overissuance whom the commissioner determines is eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance:

(i) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection;

(ii) The amount, if any, determined pursuant to an agreement submitted to the state Supplemental Nutrition Assistance Program agency under 7 U.S.C. 2022(c)(3)(A), as such section existed on January 1, 2017; or

(iii) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to 7 U.S.C. 2022(c)(3)(B), as such section existed on January 1, 2017.

(c) Any amount deducted and withheld under this subsection shall be paid by the commissioner to the state Supplemental Nutrition Assistance Program agency.

(d) Any amount deducted and withheld under subdivision (b) of this subsection shall be treated as if it were paid to the individual as unemployment

compensation and paid by such individual to the state Supplemental Nutrition Assistance Program agency as repayment of the individual's uncollected overissuance.

(e) For purposes of this subsection, unemployment compensation means any compensation payable under the Employment Security Law, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection applies only if arrangements have been made for reimbursement by the state Supplemental Nutrition Assistance Program agency for the administrative costs incurred by the commissioner under this subsection which are attributable to the repayment of uncollected overissuances to the state Supplemental Nutrition Assistance Program agency.

Source: Laws 1937, c. 108, § 15, p. 400; C.S.Supp.,1941, § 48-714; R.S.1943, § 48-647; Laws 1982, LB 801, § 5; Laws 1985, LB 339, § 32; Laws 1985, Second Spec. Sess., LB 7, § 76; Laws 1990, LB 974, § 1; Laws 1993, LB 523, § 26; Laws 1994, LB 1224, § 81; Laws 1995, LB 240, § 3; Laws 1996, LB 1044, § 275; Laws 1996, LB 1155, § 21; Laws 1997, LB 307, § 106; Laws 1997, LB 864, § 5; Laws 1998, LB 1073, § 56; Laws 2007, LB296, § 217; Laws 2009, LB288, § 15; Laws 2017, LB172, § 60.

Cross References

Administrative Procedure Act, see section 84-920.

48-648 Combined tax; employer; payment; rules and regulations governing; related corporations or limited liability companies; professional employer organization.

(1) With respect to wages for employment, combined tax shall accrue and become payable by each employer not otherwise entitled to make payments in lieu of contributions for each calendar year in which he or she is subject to the Employment Security Law. Such combined tax shall become due and be paid by each employer to the commissioner for the State Unemployment Insurance Trust Fund and the Unemployment Trust Fund in such manner and at such times as the commissioner may, by rule and regulation, prescribe. Such combined tax shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file combined tax returns and pay combined taxes owed by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing the combined tax return or payment of the tax by an electronic method would create a hardship for the employer.

(3) In the payment of any combined tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. If the combined tax due for any reporting period is less than five dollars, the employer need not remit the combined tax.

(4) If two or more related corporations or limited liability companies concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations or limited liability companies, each such corporation or limited liability company shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations or limited liability companies. An employee of a wholly owned subsidiary shall be considered to be concurrently employed by the parent corporation, company, or other entity and the wholly owned subsidiary whether or not both companies separately provide remuneration.

(5) The professional employer organization shall report and pay combined tax, penalties, and interest owed for wages earned by worksite employees under the client's employer account number using the client's combined tax rate. The client is liable for the payment of unpaid combined tax, penalties, and interest owed for wages paid to worksite employees, and the worksite employees shall be considered employees of the client for purposes of the Employment Security Law.

(6) The Commissioner of Labor may require by rule and regulation that each employer subject to the Employment Security Law shall submit to the commissioner quarterly wage reports on such forms and in such manner as the commissioner may prescribe. The commissioner may require any employer whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to file wage reports by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that filing by an electronic method would create a hardship for the employer. The quarterly wage reports shall be used by the commissioner to make monetary determinations of claims for benefits.

Source: Laws 1937, c. 108, § 7, p. 382; Laws 1941, c. 94, § 5, p. 390; C.S.Supp.,1941, § 48-707; R.S.1943, § 48-648; Laws 1971, LB 651, § 8; Laws 1981, LB 279, § 1; Laws 1985, LB 339, § 33; Laws 1992, LB 879, § 2; Laws 1994, LB 1337, § 7; Laws 1998, LB 834, § 1; Laws 2002, LB 921, § 3; Laws 2005, LB 484, § 7; Laws 2009, LB631, § 5; Laws 2015, LB271, § 6; Laws 2017, LB172, § 61.

48-648.01 Repealed. Laws 2017, LB172, § 89.

48-648.02 Wages, defined.

As used in sections 48-648 and 48-649 to 48-649.04 only, the term wages shall not include that part of the remuneration paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during a calendar year which exceeds nine thousand dollars unless that part of the remuneration is subject to a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

Source: Laws 2005, LB 739, § 6; Laws 2017, LB172, § 62.

48-649 Combined tax rate.

The commissioner shall, for each calendar year, determine the combined tax rate applicable to each employer on the basis of his or her actual experience in the payment of contributions and with respect to benefits charged against his or her separate experience account in accordance with sections 48-649.01 to 48-649.04.

Source: Laws 1937, c. 108, § 7, p. 382; Laws 1939, c. 56, § 5, p. 239; Laws 1941, c. 94, § 5, p. 390; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-649; Laws 1947, c. 175, § 10, p. 577; Laws 1949, c. 163, § 12, p. 427; Laws 1953, c. 167, § 8, p. 533; Laws 1955, c. 190, § 9, p. 548; Laws 1972, LB 1392, § 8; Laws 1976, LB 819, § 2; Laws 1977, LB 509, § 7; Laws 1984, LB 249, § 1; Laws 1985, LB 339, § 34; Laws 1994, LB 1337, § 8; Laws 1995, LB 334, § 1; Laws 2005, LB 484, § 9; Laws 2005, LB 739, § 11; Laws 2007, LB265, § 9; Laws 2009, LB631, § 7; Laws 2017, LB172, § 63.

48-649.01 State unemployment insurance tax rate.

(1) By December 1 of each calendar year, the commissioner shall determine the state unemployment insurance tax rate for the following year based on information available through the department. The state unemployment insurance tax rate shall be zero percent if:

(a) The average balance in the State Unemployment Insurance Trust Fund at the end of any three months in the preceding calendar year is greater than one percent of state taxable wages for the same preceding year; or

(b) The balance in the State Unemployment Insurance Trust Fund equals or exceeds thirty percent of the average month end balance of the state's account in the Unemployment Trust Fund for the three lowest calendar months in the preceding year.

(2) If the state unemployment insurance tax rate is determined to be zero percent pursuant to subsection (1) of this section, the contribution rate for all employers shall equal one hundred percent of the combined tax rate.

(3) If the state unemployment insurance tax rate is not zero percent as determined in this section, the combined tax rate shall be divided so that not less than eighty percent of the combined tax rate equals the contribution rate and not more than twenty percent of the combined tax rate equals the state unemployment insurance tax rate except for employers who are assigned a combined tax rate of five and four-tenths percent or more. For those employers, the state unemployment insurance tax rate shall equal zero and their combined tax rate shall equal their contribution rate.

Source: Laws 2017, LB172, § 64.

48-649.02 Employee's continued tax rate before benefits have been payable.

(1) Until benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be:

(a) For employers not engaged in the construction industry, the lesser of the value of the state's average combined tax rate as determined pursuant to section 48-649.03 or two and five-tenths percent; and

(b) For employers engaged in the construction industry, the value of the category twenty rate determined pursuant to section 48-649.03.

(2) In no event shall the combined tax rate under subsection (1) of this section be less than one and twenty-five hundredths percent.

(3) For any employer who has not paid wages for employment during each of the two preceding four-calendar-quarter periods ending on September 30, but has paid wages for employment in any two four-calendar-quarter periods, regardless of whether such four-calendar-quarter periods are consecutive, such employer's combined tax rate for the following tax year shall be:

(a) The highest combined tax rate for employers with a positive experience account balance if the employer's experience account balance exhibits a positive balance as of September 30 of the year of rate computation; or

(b) The standard rate if the employer's experience account exhibits a negative balance as of September 30 of the year of rate computation.

Source: Laws 2017, LB172, § 65.

48-649.03 Employer's combined tax rate once benefits payable from experience account; experience factor.

(1) Once benefits have been payable from and chargeable to an employer's experience account throughout the preceding four calendar quarters and wages for employment have been paid by the employer in each of the two preceding four-calendar-quarter periods, the employer's combined tax rate shall be calculated according to this section. The combined tax rate shall be based upon the employer's experience rating record and determined from the employer's reserve ratio.

(2) The employer's reserve ratio is the percent obtained by dividing (a) the amount by which the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including September 30 of the year the rate computation is made, plus any part of the employer's contributions due for that year paid on or before October 31 of such year, exceed the employer's benefits charged during the same period, by (b) the employer's average annual taxable payroll for the sixteen-consecutive-calendar-quarter period ending September 30 of the year in which the rate computation is made. For an employer with less than sixteen consecutive calendar quarters of contribution experience, the employer's average taxable payroll shall be determined based upon the four-calendar-quarter periods for which contributions were payable.

(3) Each eligible experience rated employer shall be assigned to one of twenty rate categories with a corresponding experience factor as follows:

| Category | Experience Factor |
|----------|-------------------|
| 1 | 0.00 |
| 2 | 0.25 |
| 3 | 0.40 |
| 4 | 0.45 |
| 5 | 0.50 |
| 6 | 0.60 |
| 7 | 0.65 |
| 8 | 0.70 |
| 9 | 0.80 |

| | |
|----|------|
| 10 | 0.90 |
| 11 | 0.95 |
| 12 | 1.00 |
| 13 | 1.05 |
| 14 | 1.10 |
| 15 | 1.20 |
| 16 | 1.35 |
| 17 | 1.55 |
| 18 | 1.80 |
| 19 | 2.15 |
| 20 | 2.60 |

Eligible experience rated employers shall be assigned to rate categories from highest to lowest according to their experience reserve ratio, with category one assigned to accounts with the highest reserve ratios and category twenty assigned to accounts with the lowest reserve ratios. Each category shall be limited to no more than five percent of the state’s total taxable payroll, except that:

(a) Any employer with a portion of its taxable wages falling into two consecutive categories shall be assigned to the lower category;

(b) No employer with a reserve ratio calculated to five decimal places equal to the similarly calculated reserve ratio of another employer shall be assigned to a higher rate than the employer to which it has the equal reserve ratio; and

(c) No employer with a positive experience account balance shall be assigned to category twenty.

(4) The state’s reserve ratio shall be calculated annually by dividing the amount available to pay benefits in the Unemployment Trust Fund and the State Unemployment Insurance Trust Fund as of September 30, less any outstanding obligations and amounts appropriated from those funds, by the state’s total wages from the four calendar quarters ending on September 30. For purposes of this section, total wages means all remuneration paid by an employer in employment. The state’s reserve ratio shall be applied to the table in this subsection to determine the yield factor for the upcoming rate year.

| State’s Reserve Ratio | Yield Factor |
|---|--------------|
| 1.45 percent and above | = 0.70 |
| 1.30 percent up to but not including 1.45 | = 0.75 |
| 1.15 percent up to but not including 1.30 | = 0.80 |
| 1.00 percent up to but not including 1.15 | = 0.90 |
| 0.85 percent up to but not including 1.00 | = 1.00 |
| 0.70 percent up to but not including 0.85 | = 1.10 |
| 0.60 percent up to but not including 0.70 | = 1.20 |
| 0.50 percent up to but not including 0.60 | = 1.25 |
| 0.45 percent up to but not including 0.50 | = 1.30 |
| 0.40 percent up to but not including 0.45 | = 1.35 |
| 0.35 percent up to but not including 0.40 | = 1.40 |
| 0.30 percent up to but not including 0.35 | = 1.45 |
| Below 0.30 percent | = 1.50 |

Once the yield factor for the upcoming rate year has been determined, it is multiplied by the amount of unemployment benefits paid from combined tax during the four calendar quarters ending September 30 of the preceding year. The resulting figure is the planned yield for the rate year. The planned yield is

divided by the total taxable wages for the four calendar quarters ending September 30 of the previous year and carried to four decimal places to create the average combined tax rate for the rate year.

(5) The average combined tax rate is assigned to rate category twelve as established in subsection (3) of this section. Rates for each of the remaining nineteen categories are determined by multiplying the average combined tax rate by the experience factor associated with each category and carried to four decimal places. Employers who are delinquent in filing their combined tax reports as of October 31 of any year shall be assigned to category twenty for the following calendar year unless the delinquency is corrected prior to December 31 of the year of rate calculation.

(6) In addition to required contributions, an employer may make voluntary contributions to the fund to be credited to his or her account. Voluntary contributions by employers may be made up to the amount necessary to qualify for one rate category reduction. Voluntary contributions received after January 10 shall not be used in rate calculations for the same calendar year.

(7) As used in sections 48-648 to 48-654, the term payroll means the total amount of wages during a calendar year, except as otherwise provided in section 48-654, by which the combined tax was measured.

Source: Laws 2017, LB172, § 66.

48-649.04 State or political subdivision; combined tax; election to make payments in lieu of contributions.

(1) The state or any of its political subdivisions and any instrumentality of one or more of the foregoing or any other governmental entity for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed shall be required to pay combined tax on wages paid for services rendered in its or their employment on the same basis as any other employer who is liable for the payment of combined tax under the Employment Security Law, unless the state or any political subdivision thereof and any instrumentality of one or more of the foregoing or any other governmental entity for which such services are performed files with the commissioner its written election not later than thirty days after such employer becomes subject to this section to become liable to make payments in lieu of contributions in an amount equal to the full amount of regular benefits plus the full amount of extended benefits paid during each calendar quarter that is attributable to service in employment of such electing employer.

(2) Eligible employers electing to make payments in lieu of contributions shall not be liable for combined tax payments.

(3) The commissioner, after the end of each calendar quarter, shall notify any such employer that has elected to make payments in lieu of contributions of the amount of benefits for which it is liable to pay pursuant to its election that have been paid that are attributable to service in its employment and the employer so notified shall reimburse the fund within thirty days after receipt of such notice.

(4) Any employer which makes an election in accordance with this section to become liable for payments in lieu of contributions shall continue to be liable for payments in lieu of contributions for all benefits paid based upon wages paid for service in employment of such employer while such election is effective. Any such election shall continue until such employer files with the

commissioner, not later than December 1 of any calendar year, a written notice terminating its election as of December 31 of that year. Upon termination of the election, such employer shall again be liable for the payment of contributions and for the reimbursement of such benefits as may be paid based upon wages paid for services in employment of such employer while such election was effective.

(5) The commissioner may require any employer subject to this section whose annual payroll for either of the two preceding calendar years has equaled or exceeded one hundred thousand dollars to pay the amount owed pursuant to this section by an electronic method approved by the commissioner, except when the employer establishes to the satisfaction of the commissioner that payment by an electronic method would create a hardship for the employer.

Source: Laws 2017, LB172, § 67.

48-650 Combined tax rate; determination of employment; notice; review; redetermination; proceedings; appeal.

The commissioner shall determine the rate of combined tax applicable to each employer pursuant to sections 48-649 to 48-649.04 and may determine, at any time during the year, whether services performed by an individual were employment or for an employer. Any such determination shall become conclusive and binding upon the employer unless, within thirty days after the prompt mailing of notice thereof to his or her last-known address or in the absence of mailing within thirty days after the delivery of such notice, the employer files an appeal with the department in accordance with rules and regulations adopted and promulgated by the commissioner. No employer shall have standing, in any proceeding involving his or her combined tax rate or combined tax liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to sections 48-629 to 48-644 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and only in the event that he or she was not a party to such determination, redetermination, or decision or to any other proceedings under the Employment Security Law in which the character of such services was determined. A full and complete record shall be kept of all proceedings in connection with such hearing. All testimony at any such hearing shall be recorded but need not be transcribed unless there is a further appeal. The employer shall be promptly notified of a hearing officer's decision which shall become final unless the employer or the commissioner appeals within thirty days after the date of service of the decision of the hearing officer. The appeal shall otherwise be governed by the Administrative Procedure Act.

Source: Laws 1941, c. 94, § 5, p. 391; C.S.Supp., 1941, § 48-707; R.S. 1943, § 48-650; Laws 1985, LB 339, § 35; Laws 1985, LB 342, § 1; Laws 1988, LB 352, § 88; Laws 1994, LB 1337, § 9; Laws 2001, LB 192, § 11; Laws 2017, LB172, § 68.

Cross References

Administrative Procedure Act, see section 84-920.

48-651 Employer's account; benefit payments; notice; effect.

(1) The commissioner may provide for the following by rule and regulation:

(a) Periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts; and

(b) Notification to all base period employers of any individual of the establishment of such individual's benefit year.

(2) Any such notification, in the absence of an application for redetermination filed in such manner and within such period as the commissioner may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redeterminations, made after notice and opportunity for hearing, and the commissioner's findings of fact in connection therewith may be introduced in any subsequent administrative or judicial proceedings involving the determination of the combined tax rate of any employer for any calendar year.

Source: Laws 1941, c. 94, § 5, p. 392; C.S.Supp.,1941, § 48-707; R.S. 1943, § 48-651; Laws 1985, LB 339, § 36; Laws 1994, LB 1337, § 10; Laws 2017, LB172, § 69.

48-652 Employer's experience account; reimbursement account; combined tax; liability; termination; reinstatement.

(1)(a) A separate experience account shall be established for each employer who is liable for payment of combined tax. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other.

(b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account, and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall adopt and promulgate such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. State unemployment insurance tax payments shall not be credited to the experience account of each employer. Partial payments of combined tax shall be credited so that at least eighty percent of the combined tax payment excluding interest and penalty is credited first to contributions due. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before January 10 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if:

(i) Such benefits were paid on the basis of a period of employment from which the claimant (A) left work voluntarily without good cause, (B) left work voluntarily due to a nonwork-connected illness or injury, (C) left work voluntarily with good cause to escape abuse as defined in section 42-903 between household members as provided in subdivision (1) of section 48-628.13, (D) left work from which he or she was discharged for misconduct connected with his or her work, (E) left work voluntarily and is entitled to unemployment benefits without disqualification in accordance with subdivision (3) or (5) of section 48-628.13, or (F) was involuntarily separated from employment and such benefits were paid pursuant to section 48-628.17; and

(ii) The employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) No benefits shall be charged to the experience account of any employer if such benefits were paid during a week when the individual was participating in training approved under section 236(a)(1) of the federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

(c) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of section 48-627.01.

(d)(i) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall adopt and promulgate rules and regulations determining the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period.

(ii) Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund, except that a substitute check may be issued and charged to the fund on proper showing at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

(4)(a) An employer's experience account shall be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because one or more of the owners, officers, partners, or limited liability company members or the majority stockholder entered the armed forces of the

United States, or of any of its allies, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if:

(i) The employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account;

(ii) The employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account; and

(iii) The commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. In no case shall the payment of benefits to an individual be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6)(a) For benefit years beginning before September 3, 2017, if an individual's base period wage credits represent part-time employment for a contributory employer and the contributory employer continues to employ the individual to the same extent as during the base period, then the contributory employer's experience account shall not be charged if the contributory employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations adopted and promulgated by the commissioner.

(b) For benefit years beginning on or after September 3, 2017, if an individual's base period wage credits represent part-time employment for an employer and the employer continues to employ the individual to the same extent as during the base period, then the employer's experience account, in the case of a contributory employer, or the employer's reimbursement account, in the case of a reimbursable employer, shall not be charged if the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner.

(7) If a contributory employer responds to the department's request for information within the time period set forth in subsection (1) of section 48-632 and provides accurate information as known to the employer at the time of the response, the employer's experience account shall not be charged if the individual's separation from employment is voluntary and without good cause as determined under section 48-628.12.

Source: Laws 1937, c. 108, § 7, p. 383; Laws 1939, c. 56, § 5, p. 240; Laws 1941, c. 94, § 5, p. 392; C.S.Supp., 1941, § 48-707; R.S. 1943, § 48-652; Laws 1947, c. 175, § 11, p. 579; Laws 1949, c. 163, § 13, p. 428; Laws 1953, c. 167, § 9, p. 534; Laws 1957, c. 208, § 5, p. 732; Laws 1971, LB 651, § 9; Laws 1977, LB 509, § 8; Laws 1980, LB 800, § 5; Laws 1984, LB 995, § 1; Laws 1985, LB 339, § 37; Laws 1986, LB 901, § 1; Laws 1987, LB 275, § 1; Laws 1988, LB 1033, § 3; Laws 1993, LB 121, § 292; Laws 1994, LB 884, § 65; Laws 1994, LB 1337, § 11; Laws 1995, LB 1,

§ 12; Laws 1995, LB 240, § 4; Laws 2000, LB 953, § 9; Laws 2001, LB 418, § 1; Laws 2005, LB 739, § 12; Laws 2007, LB265, § 10; Laws 2008, LB500, § 1; Laws 2009, LB631, § 8; Laws 2010, LB1020, § 6; Laws 2012, LB1058, § 7; Laws 2017, LB172, § 70; Laws 2017, LB519, § 1.

48-654 Employer's experience account; acquisition by transferee-employer; transfer; contribution rate.

(1) Subject to section 48-654.01, any employer that acquires the organization, trade, or business, or substantially all the assets of another employer shall immediately notify the commissioner of the acquisition and may, pursuant to rules and regulations adopted and promulgated by the commissioner, assume the position of such acquired employer with respect to the resources and liabilities of such acquired employer's experience account as if no change with respect to such acquired employer's experience account has occurred.

(2) The commissioner may provide by rule and regulation for partial transfers of experience accounts, except that such partial transfers of accounts shall be construed to allow computation and fixing of contribution rates only where an employer has transferred at any time a definable and segregable portion of his or her payroll and business to a transferee-employer.

(3) For an acquisition which occurs during either of the first two calendar quarters of a calendar year or during the fourth quarter of the preceding calendar year, a new rate of contributions, payable by the transferee-employer with respect to wages paid by him or her after midnight of the last day of the calendar quarter in which such acquisition occurs and prior to midnight of the following September 30, shall be computed in accordance with this section. For the purpose of computing such new rate of contributions, the computation date with respect to any such acquisition shall be September 30 of the preceding calendar year and the term payroll shall mean the total amount of wages by which contributions to the transferee's account and to the transferor's account were measured for four calendar quarters ending September 30 preceding the computation date.

Source: Laws 1937, c. 108, § 7, p. 385; Laws 1941, c. 94, § 5, p. 394; C.S.Supp.,1941, § 48-707; R.S.1943, § 48-654; Laws 1945, c. 115, § 6, p. 386; Laws 1947, c. 175, § 13, p. 582; Laws 1953, c. 169, § 1, p. 543; Laws 1985, LB 336, § 1; Laws 1985, LB 339, § 38; Laws 2005, LB 484, § 10; Laws 2009, LB631, § 9; Laws 2015, LB271, § 8; Laws 2017, LB172, § 71.

48-654.01 Employer's experience account; transferable; when; violation; penalty.

(1) For purposes of this section:

(a) Knowingly means having actual knowledge of or acting with deliberate ignorance or reckless disregard of the prohibition involved;

(b) Person means an individual, a partnership, a limited liability company, a corporation, or any other legally recognized entity;

(c) Trade or business includes the employer's workforce; and

(d) Violates or attempts to violate includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of law, the following shall apply regarding assignment of combined tax rates and transfer of an employer's experience account:

(a) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, then the employer's experience account attributable to the transferred trade or business shall be transferred to the employer to whom such business is transferred. The rates of both employers shall be recalculated in accordance with section 48-654. The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of trade or business when, as the result of such transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce and such trade or business is performed by the employer to whom the workforce is transferred. If, following a transfer of experience under this subdivision, the commissioner determines that a substantial purpose of the transfer of trade or business was to obtain a lower combined tax rate, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account; or

(b) Whenever a person is not an employer at the time it acquires the trade or business of an employer, the employer's experience account of the acquired business shall not be transferred to such person if the commissioner finds that the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate. Instead, such person shall be assigned the new employer combined tax rate under sections 48-649 and 48-649.02. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower combined tax rate, the commissioner shall use objective factors which may include:

(i) The cost of acquiring the business;

(ii) Whether the person continued the business enterprise of the acquired business;

(iii) How long such business enterprise was continued; or

(iv) Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

(3)(a) If a person knowingly violates or attempts to violate this section, or if a person knowingly advises another person in a way that results in a violation of this section and:

(i) The person is an employer, such employer shall be assigned the highest combined tax rate assignable under sections 48-649 to 48-649.04 for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such rate year. However, if the person's business is already at the highest combined tax rate or if the amount of increase in the combined tax rate would be less than two percent, then a penalty combined tax rate of two percent of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the three rate years immediately following such year; or

(ii) The person is not an employer, such person shall be subject to a civil penalty of not more than five thousand dollars.

(b) In addition to any civil penalties that may apply under this subsection, such person shall be guilty of a Class IV felony.

(4) The commissioner shall establish procedures to identify the transfer or acquisition of a business for purposes of evading combined tax liability.

Source: Laws 2005, LB 484, § 11; Laws 2017, LB172, § 72.

48-655 Combined taxes; payments in lieu of contributions; collections; set-offs; interest; actions; setoff against federal income tax refund; procedure.

(1) Combined taxes or payments in lieu of contributions unpaid on the date on which they are due and payable, as prescribed by the commissioner, shall bear interest at the rate of one and one-half percent per month from such date until payment, plus accrued interest, is received by the commissioner, except that no interest shall be charged subsequent to the date of the erroneous payment of an amount equal to the amount of the delayed payment into the unemployment trust fund of another state or to the federal government. Interest collected pursuant to this section shall be paid in accordance with subdivision (1)(b) of section 48-621. If, after due notice, any employer defaults in any payment of combined taxes or payments in lieu of contributions or interest thereon, the amount due may be collected (a) by civil action in the name of the commissioner and the employer adjudged in default shall pay the costs of such action, (b) by setoff against any state income tax refund due the employer pursuant to sections 77-27,197 to 77-27,209, or (c) as provided in subsection (2) of this section. Civil actions brought under this section to collect combined taxes or interest thereon or payments in lieu of contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under section 48-638.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this subsection that the liable party's federal income tax refund is not subject to setoff does not require the commissioner to amend the commissioner's initial determination that formed the basis for the proposed setoff.

Source: Laws 1937, c. 108, § 14, p. 398; Laws 1939, c. 56, § 11, p. 249; C.S.Supp.,1941, § 48-713; R.S.1943, § 48-655; Laws 1947, c. 175, § 14, p. 582; Laws 1949, c. 163, § 14(1), p. 429; Laws 1971, LB 651, § 10; Laws 1985, LB 337, § 1; Laws 1986, LB 811, § 137; Laws 1993, LB 46, § 14; Laws 1994, LB 1337, § 12; Laws 1995, LB 1, § 13; Laws 2000, LB 953, § 10; Laws 2009, LB631, § 10; Laws 2012, LB1058, § 8; Laws 2017, LB172, § 73.

48-656 Combined taxes; report or return; requirements; assessment; notice; protest; penalty.

(1) If any employer fails to file a report or return required by the commissioner for the determination of combined taxes, the commissioner may make such reports or returns or cause them to be made and determine the combined taxes payable, on the basis of such information as he or she may be able to obtain, and shall collect the combined taxes as determined together with any interest thereon due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in writing, by registered or certified mail, in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer upon written request therefor. After the hearing, the hearing officer shall immediately notify the employer in writing of his or her decision, and the assessment, if any, shall be final upon issuance of such notice.

(2) If any employer files a report or return required by the commissioner for the determination of combined taxes but fails to pay all or some part of the combined taxes actually due for the reported period, the commissioner may determine the combined taxes actually payable on the basis of such information as he or she may be able to obtain and shall collect the combined taxes as determined together with any interest due under section 48-655. The commissioner shall immediately notify the employer of the assessment, in writing by registered or certified mail in the usual course, and such assessment shall be final unless the employer protests such assessment within fifteen days after the mailing of the notice. If the employer protests such assessment, the employer shall have an opportunity to be heard by a hearing officer upon a written request therefor. After the hearing, the hearing officer shall immediately notify the employer in writing of his or her decision and the assessment, if any, shall be final upon issuance of such notice.

(3) Any employer or any officer or agent of an employer who fails to file a required quarterly combined tax report and wage schedule by the tenth day of the second month following the end of the calendar quarter shall pay a penalty to the commissioner of one-tenth of one percent of the total wages paid during the quarter, except that the penalty shall not be less than twenty-five nor more than two hundred dollars. For good cause shown, the commissioner may waive the penalty in accordance with rules and regulations adopted and promulgated by the commissioner. The commissioner shall remit any penalty collected to the State Treasurer who shall credit it to the pool account of the Employment Security Special Contingent Fund.

Source: Laws 1939, c. 56, § 11, p. 249; C.S.Supp.,1941, § 48-713; R.S. 1943, § 48-656; Laws 1957, c. 208, § 7, p. 735; Laws 1989, LB 414, § 1; Laws 1994, LB 1337, § 14; Laws 2001, LB 192, § 12; Laws 2017, LB172, § 74.

48-660.01 Benefits; nonprofit organizations; combined tax; payments in lieu of contributions; election; notice; appeal; lien; liability.

(1) Benefits paid to employees of nonprofit organizations shall be financed in accordance with this section. For the purpose of this section, a nonprofit

organization is an organization, or group of organizations, described in subdivision (9) of section 48-603.

(2)(a) Any nonprofit organization which is, or becomes, subject to the Employment Security Law shall pay combined tax under sections 48-648 to 48-661 unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment fund an amount, equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(b) Any nonprofit organization which is, or becomes, subject to the Employment Security Law may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with subdivision (b) of this subsection shall continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying combined tax under the Employment Security Law may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such rules and regulations as he or she may adopt and promulgate, shall notify each nonprofit organization of any determination which he or she may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to redetermination and appeal, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Payments in lieu of contributions shall be made in accordance with this subsection as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the commissioner, the commissioner shall bill each nonprofit organization, or group of such organizations, which has elected to make payment in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization;

(b) Payment of any bill rendered under subdivision (a) of this subsection shall be made not later than thirty days after such bill was mailed to the last-known address of the nonprofit organization or was otherwise delivered to it unless

there has been an application for review and redetermination in accordance with subdivision (d) of this subsection;

(c) Payments made by any nonprofit organization under this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization;

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than thirty days after the bill was mailed to its last-known address or otherwise delivered to it, the organization files an application for redetermination by the commissioner setting forth the grounds for such application. The commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization appeals the redetermination, and the appeal shall be in accordance with the Administrative Procedure Act; and

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest that, pursuant to section 48-655, applies to past-due contributions, and the commissioner may file a lien against such nonprofit organization in accordance with the Uniform State Tax Lien Registration and Enforcement Act. Such liens shall set forth the amount of payments in lieu of contributions and interest in default and shall be enforced as provided in the Uniform State Tax Lien Registration and Enforcement Act.

(4) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

(5) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with section 48-652.

Source: Laws 1971, LB 651, § 11; Laws 1985, LB 339, § 42; Laws 1988, LB 352, § 89; Laws 1994, LB 1337, § 19; Laws 1999, LB 165, § 2; Laws 2015, LB271, § 9; Laws 2017, LB172, § 75.

Cross References

Administrative Procedure Act, see section 84-920.

Uniform State Tax Lien Registration and Enforcement Act, see section 77-3901.

48-662 State employment service; establishment; functions; funds available; agreements authorized.

The state employment service is hereby established in the Department of Labor, State of Nebraska. The commissioner of such department, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of the Employment Security Law and for the purpose of performing such functions as are within the purview of the Act of Congress entitled

An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes, approved June 6, 1933, (48 Stat. 113; 29 U.S.C. 49 (c)), as amended, herein referred to as the Wagner-Peyser Act. The provisions of the Act of Congress are hereby accepted by this state and the Department of Labor is hereby designated and constituted the agency of this state for the purposes of such act. All money received by this state under the Act of Congress shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices. There shall also be credited to the Employment Security Administration Fund for the same purpose, any sums appropriated by the Legislature from the General Fund of the state for the purposes of maintaining public employment offices or of matching funds granted under the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices and promoting the use of their facilities, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, any other agency of the United States or of this or any other state charged with the administration of any law whose purposes are reasonably related to the purposes of the Employment Security Law, any political subdivision of this state, or any private nonprofit organization and as a part of such agreements may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All money received for such purposes shall be paid into the Employment Security Administration Fund.

Source: Laws 1941, c. 94, § 17, p. 402; C.S.Supp.,1941, § 48-726; R.S. 1943, § 48-662; Laws 1949, c. 163, § 15, p. 430; Laws 1961, c. 239, § 3, p. 713; Laws 1984, LB 747, § 5; Laws 1985, LB 339, § 44; Laws 2017, LB172, § 76.

48-663 Benefits; prohibited acts by employee; penalty; limitation of time for prosecution.

Whoever obtains or increases any benefit or other payment under sections 48-623 to 48-629 or under an employment security law of any other state, the federal government, or a foreign government, either for himself or herself or for any other person, (1) by making a false statement or representation knowing it to be false by oral, written, or electronic communication that can be attributed to such person by use of a personal identification number or other identification process or (2) by knowingly failing to disclose a material fact shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Prosecution under this section may be instituted within three years after the time the offense was committed in any county where any part of the crime was committed, including the county in which the person received the benefits.

Source: Laws 1937, c. 108, § 16, p. 400; C.S.Supp.,1941, § 48-715; R.S.1943, § 48-663; Laws 1949, c. 163, § 16(1), p. 432; Laws 1953, c. 167, § 12, p. 538; Laws 1957, c. 208, § 10, p. 737; Laws 1977, LB 40, § 294; Laws 1985, LB 340, § 1; Laws 1986, LB 950, § 7; Laws 2001, LB 192, § 14; Laws 2017, LB172, § 77.

48-663.01 Benefits; false statements by employee; forfeit; appeal; failure to repay overpayment of benefits; penalty; levy authorized; procedure; failure or refusal to honor levy; liability.

(1)(a) Notwithstanding any other provision of this section, or of section 48-627 or 48-663, an individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her or who willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, shall forfeit all or part of his or her benefit rights, as determined by an adjudicator, with respect to uncharged wage credits accrued prior to the date of such failure or to the date of such falsifications.

(b) In addition to any benefits which he or she may be required to repay pursuant to subdivision (1)(a) of this section, if an overpayment is established pursuant to this section, an individual shall be required to pay to the department a penalty equal to fifteen percent of the amount of benefits received as a result of such willful failure to disclose or falsification. All amounts collected pursuant to this subdivision shall be remitted for credit to the Unemployment Compensation Fund.

(c) An appeal may be taken from any determination made pursuant to subdivision (1)(a) of this section in the manner provided in section 48-634.

(2)(a) If any person liable to repay an overpayment of unemployment benefits resulting from a determination under subdivision (1)(a) of this section and pay the penalty required under subdivision (1)(b) of this section fails or refuses to repay such overpayment and pay any penalty assessed within twelve months after the date the overpayment determination becomes final, the commissioner may issue a levy on salary, wages, or other regular payments due to or received by such person and such levy shall be continuous from the date the levy is served until the amount of the levy is satisfied. Notice of the levy shall be mailed to the person whose salary, wages, or other regular payment is levied upon at his or her last-known address not later than the date that the levy is served. Exemptions or limitations on the amount of salary, wages, or other regular payment that can be garnished or levied upon by a judgment creditor shall apply to levies made pursuant to this section. Appeal of a levy may be made in the manner provided in section 48-634, but such appeal shall not act as a stay of the levy.

(b) Any person upon whom a levy is served who fails or refuses to honor the levy without cause may be held liable for the amount of the levy up to the value of the assets of the person liable to repay the overpayment that are under the control of the person upon whom the levy is served at the time of service and thereafter.

Source: Laws 1949, c. 163, § 16(2), p. 432; Laws 2007, LB265, § 11; Laws 2012, LB1058, § 9; Laws 2015, LB271, § 10; Laws 2017, LB172, § 78.

48-664 Benefits; false statements by employer; penalty; failure or refusal to make combined tax payment.

Any employer, whether or not subject to the Employment Security Law, or any officer or agent of such an employer or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any

individual entitled thereto, to obtain benefits for an individual not entitled thereto, to avoid becoming or remaining subject to such law, or to avoid or reduce any contribution or other payment required from an employer under sections 48-648 and 48-649 to 48-649.04, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required under the Employment Security Law or to produce or permit the inspection or copying of records as required under such law, shall be guilty of a Class III misdemeanor. Each such false statement or representation or failure to disclose a material fact and each day of such failure or refusal shall constitute a separate offense. An individual employer, partner, corporate officer, or member of a limited liability company or limited liability partnership who willfully fails or refuses to make any combined tax payment shall be jointly and severally liable for the payment of such combined tax and any penalties and interest owed thereon. When an unemployment benefit overpayment occurs, in whole or in part, as the result of a violation of this section by an employer, the amount of the overpayment recovered shall not be credited back to such employer's experience account.

Source: Laws 1937, c. 108, § 16, p. 400; C.S.Supp.,1941, § 48-715; R.S.1943, § 48-664; Laws 1953, c. 167, § 13, p. 539; Laws 1977, LB 40, § 295; Laws 1985, LB 339, § 45; Laws 2005, LB 484, § 12; Laws 2007, LB265, § 12; Laws 2017, LB172, § 79.

48-665 Benefits; erroneous payments; recovery; setoff against federal income tax refund; procedure.

(1) Any person who has received any sum as benefits under the Employment Security Law to which he or she was not entitled shall be liable to repay such sum to the commissioner for the fund. Any such erroneous benefit payments shall be collectible (a) without interest by civil action in the name of the commissioner, (b) by offset against any future benefits payable to the claimant with respect to the benefit year current at the time of such receipt or any benefit year which may commence within three years after the end of such current benefit year, except that no such recoupment by the withholding of future benefits shall be had if such sum was received by such person without fault on his or her part and such recoupment would defeat the purpose of the Employment Security Law or would be against equity and good conscience, (c) by setoff against any state income tax refund due the claimant pursuant to sections 77-27,197 to 77-27,209, or (d) as provided in subsection (2) of this section.

(2) The commissioner may recover a covered unemployment compensation debt, as defined in 26 U.S.C. 6402, by setoff against a liable party's federal income tax refund. Such setoff shall be made in accordance with such section and United States Treasury regulations and guidelines adopted pursuant thereto. The commissioner shall notify the debtor that the commissioner plans to recover the debt through setoff against any federal income tax refund, and the debtor shall be given sixty days to present evidence that all or part of the liability is either not legally enforceable or is not a covered unemployment compensation debt. The commissioner shall review any evidence presented and determine that the debt is legally enforceable and is a covered unemployment compensation debt before proceeding further with the offset. The amount recovered, less any administrative fees charged by the United States Treasury, shall be credited to the debt owed. Any determination rendered under this

subsection that the liable party's federal income tax refund is not subject to setoff does not require the commissioner to amend the commissioner's initial determination that formed the basis for the proposed setoff.

Source: Laws 1937, c. 108, § 16, p. 401; Laws 1941, c. 94, § 12, p. 400; C.S.Supp., 1941, § 48-715; R.S. 1943, § 48-665; Laws 1953, c. 167, § 14(1), p. 539; Laws 1969, c. 403, § 2, p. 1400; Laws 1980, LB 798, § 1; Laws 1985, LB 339, § 46; Laws 1986, LB 950, § 8; Laws 1993, LB 46, § 15; Laws 2009, LB631, § 11; Laws 2012, LB1058, § 10; Laws 2017, LB172, § 80.

48-665.01 Benefits; unlawful payments from foreign state or government; recovery.

Any person who has received any sum as benefits to which he or she was not entitled from any agency which administers an employment security law of another state or foreign government and who has been found liable to repay benefits received under such law may be required to repay to the commissioner for such state or foreign government the amount found due. Such amount, without interest, may be collected (1) by civil action in the name of the commissioner acting as agent for such agency, (2) by offset against any future benefits payable to the claimant under the Employment Security Law for any benefit year which may commence within three years after the claimant was notified such amount was due, except that no such recoupment by the withholding of future benefits shall be had if such sum was received by such person without fault on his or her part and such recoupment would defeat the purpose of the Employment Security Law or would be against equity and good conscience, (3) by setoff against any state income tax refund due the claimant pursuant to sections 77-27,197 to 77-27,209, or (4) as provided in subsection (2) of section 48-665.

Source: Laws 1953, c. 167, § 14(2), p. 540; Laws 1986, LB 950, § 9; Laws 1993, LB 46, § 16; Laws 2012, LB1058, § 11.

48-669 Repealed. Laws 2017, LB172, § 89.

48-672 Short-time compensation program created.

Sections 48-672 to 48-683 create the short-time compensation program.

Source: Laws 2014, LB961, § 13.

48-673 Short-time compensation program; terms, defined.

For purposes of sections 48-672 to 48-683:

(1) Affected unit means a specified plant, department, shift, or other definable unit which includes three or more employees to which an approved short-time compensation plan applies;

(2) Commissioner means the Commissioner of Labor or any delegate or subordinate responsible for approving applications for participation in a short-time compensation plan;

(3) Health and retirement benefits means employer-provided health benefits and retirement benefits under a defined benefit plan, as defined in section 414(j) of the Internal Revenue Code, or contributions under a defined contribu-

tion plan, as defined in section 414(i) of the Internal Revenue Code, which are incidents of employment in addition to the cash remuneration earned;

(4) Short-time compensation means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan, as distinguished from the unemployment benefits otherwise payable under the Employment Security Law;

(5) Short-time compensation plan means a plan submitted by an employer, for written approval by the commissioner, under which the employer requests the payment of short-time compensation to workers in an affected unit of the employer to avert layoffs;

(6) Unemployment compensation means the unemployment benefits payable under the Employment Security Law other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment; and

(7) Usual weekly hours of work means the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed forty hours and not including hours of overtime work.

Source: Laws 2014, LB961, § 14.

48-674 Short-time compensation program; participation; application; form; contents.

An employer wishing to participate in the short-time compensation program shall submit a signed written short-time compensation plan to the commissioner for approval. The commissioner shall develop an application form to request approval of a short-time compensation plan and an approval process. The application shall include:

(1) The affected unit or units covered by the plan, including the number of full-time or part-time employees in such unit, the percentage of employees in the affected unit covered by the plan, identification of each individual employee in the affected unit by name, social security number, and the employer's unemployment tax account number, and any other information required by the commissioner to identify plan participants;

(2) A description of how employees in the affected unit will be notified of the employer's participation in the short-time compensation plan if such application is approved, including how the employer will notify those employees in a collective-bargaining unit as well as any employees in the affected unit who are not in a collective-bargaining unit. If the employer will not provide advance notice to employees in the affected unit, the employer shall explain in a statement in the application why it is not feasible to provide such notice;

(3) A requirement that the employer identify the usual weekly hours of work for employees in the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the plan. An application shall specify the percentage of reduction for which a short-time compensation plan application may be approved which shall be not less than ten percent and not more than sixty percent. If the plan includes any week for which the employer regularly provides no work due to a holiday or other plant closing, then such week shall be identified in the application;

(4)(a) Certification by the employer that, if the employer provides health and retirement benefits to any employee whose usual weekly hours of work are reduced under the program, such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the usual weekly hours of work of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program.

(b) For defined benefit retirement plans, the hours that are reduced under the short-time compensation plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the usual weekly hours of work had not been reduced. The dollar amount of employer contributions to a defined contribution plan that are based on a percentage of compensation may be less due to the reduction in the employee's compensation.

(c) Notwithstanding subdivisions (4)(a) and (b) of this section, an application may contain the required certification when a reduction in health and retirement benefits scheduled to occur during the duration of the plan will be applicable equally to employees who are not participating in the short-time compensation program and to those employees who are participating;

(5) Certification by the employer that the aggregate reduction in work hours is in lieu of layoffs, temporary or permanent layoffs, or both. The application shall include an estimate of the number of employees who would have been laid off in the absence of the short-time compensation plan;

(6) Certification by the employer that the short-time compensation program shall not serve as a subsidy of seasonal employment during the off-season, nor as a subsidy of temporary part-time or intermittent employment;

(7) Agreement by the employer to: Furnish reports to the commissioner relating to the proper conduct of the plan; allow the commissioner access to all records necessary to approve or disapprove the plan application and, after approval of a plan, to monitor and evaluate the plan; and follow any other directives the commissioner deems necessary for the agency to implement the plan and which are consistent with the requirements for short-time compensation plan applications;

(8) Certification by the employer that participation in the short-time compensation plan and its implementation is consistent with the employer's obligations under applicable federal and state laws;

(9) The effective date and duration of the plan that shall expire not later than the end of the twelfth full calendar month after the effective date;

(10) Certification by the employer that it has obtained the written approval of any applicable collective-bargaining unit representative and has notified all affected employees who are not in a collective-bargaining unit of the proposed short-time compensation plan;

(11) Certification by the employer that it will not hire additional part-time or full-time employees for the affected unit while the short-time compensation plan is in effect; and

(12) Any other provision added to the application by the commissioner that the United States Secretary of Labor determines to be appropriate for purposes of a short-time compensation program.

Source: Laws 2014, LB961, § 15.

48-675 Short-time compensation program; commissioner; decision; eligibility.

(1) The commissioner shall approve or disapprove a short-time compensation plan in writing within thirty days after its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than forty-five days after the date of the disapproval.

(2)(a) A short-time compensation plan will only be approved for a contributory employer that (a) is eligible for experience rating under section 48-649.03, (b) has a positive balance in the employer's experience account, (c) has filed all quarterly reports and other reports required under the Employment Security Law, and (d) has paid all obligation assessments, contributions, interest, and penalties due through the date of the employer's application.

(b) A short-time compensation plan will only be approved for an employer liable for making payments in lieu of contributions that has filed all quarterly reports and other reports required under the Employment Security Law and has paid all obligation assessments, payments in lieu of contributions, interest, and penalties due through the date of the employer's application.

Source: Laws 2014, LB961, § 16; Laws 2017, LB172, § 81.

48-676 Short-time compensation program; plan; effective date; notice of approval; expiration; revocation; termination.

(1) A short-time compensation plan shall be effective on the date that is mutually agreed upon by the employer and the commissioner, which shall be specified in the notice of approval to the employer. The plan shall expire on the date specified in the notice of approval, which shall be either the date at the end of the twelfth full calendar month after its effective date or an earlier date mutually agreed upon by the employer and the commissioner.

(2) If a short-time compensation plan is revoked by the commissioner under section 48-677, the plan shall terminate on the date specified in the commissioner's written order of revocation.

(3) An employer may terminate a short-time compensation plan at any time upon written notice to the commissioner. Upon receipt of such notice from the employer, the commissioner shall promptly notify each member of the affected unit of the termination date.

(4) An employer may submit a new application to participate in another short-time compensation plan at any time after the expiration or termination date.

Source: Laws 2014, LB961, § 17.

48-677 Short-time compensation program; plan; revocation; procedure; grounds; order.

(1) The commissioner may revoke approval of a short-time compensation plan for good cause at any time, including upon the request of any of the affected unit's employees. The revocation order shall be in writing and shall specify the reasons for the revocation and the date the revocation is effective.

(2) The commissioner may periodically review the operation of each employer's short-time compensation plan to assure that no good cause exists for

revocation of the approval of the plan. Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the short-time compensation plan, and violation of any criteria on which approval of the plan was based.

Source: Laws 2014, LB961, § 18.

48-678 Short-time compensation program; plan; modification; request; decision; employer; report.

(1) An employer may request a modification of an approved plan by filing a written request with the commissioner. The request shall identify the specific provisions proposed to be modified and provide an explanation of why the proposed modification is appropriate for the short-time compensation plan. The commissioner shall approve or disapprove the proposed modification in writing within thirty days after receipt and promptly communicate the decision to the employer.

(2) The commissioner may approve a request for modification of the plan based on conditions that have changed since the plan was approved if the modification is consistent with and supports the purposes for which the plan was initially approved. A modification does not extend the expiration date of the original plan, and the commissioner shall promptly notify the employer whether the plan modification has been approved and, if approved, the effective date of the modification.

(3) An employer is not required to request approval of a plan modification from the commissioner if the change is not substantial, but the employer must report every change to the plan to the commissioner promptly and in writing. The commissioner may terminate an employer's plan if the employer fails to meet this reporting requirement. If the commissioner determines that the reported change is substantial, the commissioner shall require the employer to request a modification to the plan.

Source: Laws 2014, LB961, § 19.

48-679 Short-time compensation program; individual; eligibility.

An individual is eligible to receive short-time compensation with respect to any week only if the individual is monetarily eligible for unemployment compensation, not otherwise disqualified for unemployment compensation, and:

(1) During the week, the individual is employed as a member of an affected unit under an approved short-time compensation plan, which was approved prior to that week, and the plan is in effect with respect to the week for which short-time compensation is claimed;

(2) Notwithstanding any other provisions of the Employment Security Law relating to availability for work and actively seeking work, the individual is available for the individual's usual hours of work with the short-time compensation employer, which may include, for purposes of this section, participating in training to enhance job skills that is approved by the commissioner such as employer-sponsored training or training funded under the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq.; and

(3) Notwithstanding any other provision of law, an individual covered by a short-time compensation plan is deemed unemployed in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced based on a reduction of the individual's usual weekly hours of work under an approved short-time compensation plan.

Source: Laws 2014, LB961, § 20; Laws 2017, LB172, § 82.

48-680 Short-time compensation program; weekly benefit amount; provisions applicable to individuals.

(1) The short-time compensation weekly benefit amount shall be the product of the regular weekly unemployment compensation amount for a week of total unemployment multiplied by the percentage of reduction in the individual's usual weekly hours of work.

(2) An individual may be eligible for short-time compensation or unemployment compensation, as appropriate, except that no individual shall be eligible for combined benefits in any benefit year in an amount more than the maximum entitlement established for regular unemployment compensation, nor shall an individual be paid short-time compensation benefits for more than fifty-two weeks under a short-time compensation plan.

(3) The short-time compensation paid to an individual shall be deducted from the maximum entitlement amount of unemployment compensation established for that individual's benefit year.

(4) Provisions applicable to unemployment compensation claimants shall apply to short-time compensation claimants to the extent that they are not inconsistent with short-time compensation provisions. An individual who files an initial claim for short-time compensation benefits shall receive a monetary determination.

(5) The following provisions apply to individuals who work for both a short-time compensation employer and another employer during weeks covered by the approved short-time compensation plan:

(a) If combined hours of work in a week for both employers does not result in a reduction of at least ten percent, or, if higher, the minimum percentage of reduction required to be eligible for a short-time compensation, of the usual weekly hours of work with the short-time employer, the individual shall not be entitled to short-time compensation;

(b) If the combined hours of work for both employers results in a reduction equal to or greater than ten percent, or, if higher, the minimum percentage reduction required to be eligible for short-time compensation, of the usual weekly hours of work for the short-time compensation employer, the short-time compensation payable to the individual is reduced for that week and is determined by multiplying the weekly unemployment benefit amount for a week of total unemployment by the percentage by which the combined hours of work have been reduced by ten percent, or, if higher, the minimum percentage reduction required to be eligible for short-time compensation, or more of the individual's usual weekly hours of work. A week for which benefits are paid under this subdivision shall be reported as a week of short-time compensation; and

(c) If an individual worked the reduced percentage of the usual weekly hours of work for the short-time compensation employer and is available for all his or

her usual hours of work with the short-time compensation employer, and the individual did not work any hours for the other employer, either because of the lack of work with that employer or because the individual is excused from work with the other employer, the individual shall be eligible for short-time compensation for that week. The benefit amount for such week shall be calculated as provided in subsection (1) of this section.

(6) An individual who is not provided any work during a week by the short-time compensation employer, or any other employer, and who is otherwise eligible for unemployment compensation shall be eligible for the amount of unemployment compensation to which he or she would otherwise be eligible.

(7) An individual who is not provided any work by the short-time compensation employer during a week, but who works for another employer and is otherwise eligible, may be paid unemployment compensation for that week subject to the disqualifying income and other provisions applicable to claims for regular compensation.

Source: Laws 2014, LB961, § 21.

48-681 Short-time compensation; charged to employer's experience account.

Short-time compensation shall be charged to the employer's experience account in the same manner as unemployment compensation is charged. Employers liable for payments in lieu of contributions shall have short-time compensation attributed to service in their employ in the same manner as unemployment compensation is attributed.

Source: Laws 2014, LB961, § 22.

48-682 Short-time compensation; when considered exhaustee.

An individual who has received all of the short-time compensation or combined unemployment compensation and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of extended benefits under section 48-628.14 and, if otherwise eligible under such section, shall be eligible to receive extended benefits.

Source: Laws 2014, LB961, § 23; Laws 2017, LB172, § 83.

48-683 Short-time compensation program; department; funding; report.

(1) The department shall not use General Funds to implement the short-time compensation program. The department shall use any and all available federal funds to implement the short-time compensation program, including, but not limited to, federal funds distributed to the state under sections 903(c), 903(d), 903(f), and 903(g) of the federal Social Security Act, as amended.

(2) The department shall submit an annual report to the Governor and electronically to the Legislature on the short-time compensation program trends, including the number of employers filing short-time compensation program plans, the number of layoffs averted through the use of the short-time compensation program, the amount of short-time compensation program benefits paid, and other information pertinent to the short-time compensation program.

Source: Laws 2014, LB961, § 24.

ARTICLE 7
BOILER INSPECTION

Section

48-721. State boiler inspector; deputy inspectors; qualifications; bond or insurance.
48-735.01. Boiler Inspection Cash Fund; created; use; investment.

48-721 State boiler inspector; deputy inspectors; qualifications; bond or insurance.

(1) The commissioner shall employ a state boiler inspector who shall work under the direct supervision of the commissioner or his or her designee and devote his or her full time to the duties of the office. The person so appointed shall:

(a) Be a practical boilermaker, technical engineer, operating engineer, or boiler inspector;

(b) Hold an "AI" or "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors. The state boiler inspector shall also either hold "B" and "R" endorsements to his or her commission at the time of hire or acquire such endorsements within eighteen months of employment;

(c) Be qualified by not less than ten years' experience in the construction, installation, repair, inspection, or operation of boilers, steam generators, and superheaters;

(d) Have a knowledge of the operation and use of boilers, steam generators, and superheaters for the generating of steam for power, heating, or other purposes; and

(e) Neither directly nor indirectly be interested in the manufacture, ownership, or agency of boilers, steam generators, and superheaters.

(2) The commissioner may hire deputy inspectors as necessary to carry out the Boiler Inspection Act. Deputy inspectors shall hold an "IS" Commission from the National Board of Boiler and Pressure Vessel Inspectors or acquire the same within twelve months of hire. Such deputy inspectors shall otherwise be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector.

(3) Before entering upon his or her duties under the Boiler Inspection Act, the state boiler inspector and each deputy inspector shall be bonded or insured as required by section 11-201.

Source: Laws 1943, c. 112, § 1, p. 392; R.S.1943, § 48-701; Laws 1978, LB 653, § 12; R.S.1943, (1984), § 48-701; Laws 1987, LB 462, § 3; Laws 1998, LB 395, § 12; Laws 1999, LB 66, § 1; Laws 2004, LB 884, § 23; Laws 2017, LB264, § 1.

48-735.01 Boiler Inspection Cash Fund; created; use; investment.

The Boiler Inspection Cash Fund is created. The commissioner shall use the fund for the administration of the boiler inspection program pursuant to the Boiler Inspection Act. The fund shall consist of money appropriated to it by the Legislature and fees collected in the administration of the act. Fees so collected shall be remitted to the State Treasurer with an itemized statement showing the source of collection. The State Treasurer shall credit the fees to the fund and the money in the fund shall not lapse into the General Fund, except that money

in the Boiler Inspection Cash Fund may be transferred to the General Fund at the direction of the Legislature. Any money in the Boiler Inspection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer one hundred fifty thousand dollars from the Boiler Inspection Cash Fund to the General Fund on or before June 15, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1995, LB 438, § 13; Laws 2017, LB331, § 25.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 8

COMMISSION OF INDUSTRIAL RELATIONS

Section

- 48-801. Terms, defined.
- 48-801.01. Act, how cited.
- 48-802. Public policy.
- 48-804. Commissioners, appointment, term; vacancy; removal; presiding officer; selection; duties; quorum; applicability of law.
- 48-809. Commission; powers.
- 48-811. Commission; filing of petition; effect; change in employment status, wages, or terms and conditions of employment; motion; hearing; order authorized; exception.
- 48-811.02. Repealed. Laws 2011, LB 397, § 35.
- 48-813. Commission; notice of pendency of proceedings; service; response; filing; final offer; included with petition; included with answers; procedure; exception; hearing; waiver of notice.
- 48-816. Preliminary proceedings; commission; powers; duties; collective bargaining; posttrial conference.
- 48-817. Commission; findings; decisions; orders.
- 48-818. Commission; findings; order; powers; duties; orders authorized; modification.
- 48-818.01. School districts, educational service units, and community colleges; collective bargaining; timelines; procedure; resolution officer; powers; duties; action filed with commission; when; collective-bargaining agreement; contents.
- 48-818.02. School district, educational service unit, or community college; total compensation; considerations.
- 48-818.03. School district, educational service unit, or community college; wage rates; commission; duties; orders authorized.
- 48-824. Labor negotiations; prohibited practices.
- 48-838. Collective bargaining; questions of representation; elections; nonmember employee duty to reimburse; when.
- 48-839. Changes made by Laws 2011, LB397; applicability.

48-801 Terms, defined.

As used in the Industrial Relations Act, unless the context otherwise requires:

- (1) Certificated employee has the same meaning as in section 79-824;
- (2) Commission means the Commission of Industrial Relations;
- (3) Commissioner means a member of the commission;

(4) Governmental service means all services performed under employment by the State of Nebraska or any political or governmental subdivision thereof, including public corporations, municipalities, and public utilities;

(5) Industrial dispute includes any controversy between public employers and public employees concerning terms, tenure, or conditions of employment; the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment; or refusal to discuss terms or conditions of employment;

(6) Instructional employee means an employee of a community college who provides direct instruction to students;

(7) Labor organization means any organization of any kind or any agency or employee representation committee or plan, in which public employees participate and which exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(8) Metropolitan statistical area means a metropolitan statistical area as defined by the United States Office of Management and Budget;

(9) Municipality means any city or village in Nebraska;

(10) Noncertificated and noninstructional school employee means a school district, educational service unit, or community college employee who is not a certificated or instructional employee;

(11) Public employee includes any person employed by a public employer;

(12) Public employer means the State of Nebraska or any political or governmental subdivision of the State of Nebraska except the Nebraska National Guard or state militia;

(13) Public utility includes any person or governmental entity, including any public corporation, public power district, or public power and irrigation district, which carries on an intrastate business in this state and over which the government of the United States has not assumed exclusive regulation and control, that furnishes transportation for hire, telephone service, telegraph service, electric light, heat, or power service, gas for heating or illuminating, whether natural or artificial, or water service, or any one or more thereof; and

(14) Supervisor means any public employee having authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, or responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with such action the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

Source: Laws 1947, c. 178, § 1, p. 586; Laws 1967, c. 303, § 1, p. 823; Laws 1967, c. 304, § 1, p. 826; Laws 1969, c. 407, § 1, p. 1405; Laws 1972, LB 1228, § 1; Laws 1985, LB 213, § 1; Laws 1986, LB 809, § 2; Laws 1993, LB 121, § 294; Laws 2007, LB472, § 1; Laws 2011, LB397, § 1.

48-801.01 Act, how cited.

Sections 48-801 to 48-839 shall be known and may be cited as the Industrial Relations Act.

Source: Laws 1986, LB 809, § 1; Laws 1995, LB 365, § 1; Laws 1995, LB 382, § 3; Laws 2011, LB397, § 2.

48-802 Public policy.

To make operative the provisions of section 9, Article XV, of the Constitution of Nebraska, the public policy of the State of Nebraska is hereby declared to be as follows:

(1) The continuous, uninterrupted and proper functioning and operation of the governmental service including governmental service in a proprietary capacity and of public utilities engaged in the business of furnishing transportation for hire, telephone service, telegraph service, electric light, heat, or power service, gas for heating or illuminating, whether natural or artificial, or water service, or any one or more of them, to the people of Nebraska are hereby declared to be essential to their welfare, health, and safety. It is contrary to the public policy of the state to permit any substantial impairment or suspension of the operation of governmental service, including governmental service in a proprietary capacity or any such utility by reason of industrial disputes therein. It is the duty of the State of Nebraska to exercise all available means and every power at its command to prevent the same so as to protect its citizens from any dangers, perils, calamities, or catastrophes which would result therefrom. It is therefor further declared that governmental service, including governmental service in a proprietary capacity, and the service of such public utilities are clothed with a vital public interest and to protect the same it is necessary that the relations between the public employers and public employees in such industries be regulated by the State of Nebraska to the extent and in the manner provided in the Industrial Relations Act;

(2) No right shall exist in any natural or corporate person or group of persons to hinder, delay, limit, or suspend the continuity or efficiency of any governmental service or governmental service in a proprietary capacity of this state, either by strike, lockout, or other means; and

(3) No right shall exist in any natural or corporate person or group of persons to hinder, delay, limit, or suspend the continuity or efficiency of any public utility service, either by strike, lockout, or other means.

Source: Laws 1947, c. 178, § 2, p. 587; Laws 2011, LB397, § 3.

48-804 Commissioners, appointment, term; vacancy; removal; presiding officer; selection; duties; quorum; applicability of law.

(1) The Commission of Industrial Relations shall be composed of five commissioners appointed by the Governor, with the advice and consent of the Legislature. The commissioners shall be representative of the public. Each commissioner shall be appointed and hold office for a term of six years and until a successor has qualified. In case of a vacancy, the Governor shall appoint a successor to fill the vacancy for the unexpired term.

(2) Any commissioner may be removed by the Governor for the same causes as a judge of the district court may be removed.

(3) The commissioners shall, on July 1 of every odd-numbered year by a majority vote, select one of their number as presiding officer for the next two

years, who shall preside at all hearings by the commission en banc, and shall assign the work of the commission to the several commissioners and perform such other supervisory duties as the needs of the commission may require. A majority of the commissioners shall constitute a quorum to transact business. The act or decision of any three of the commissioners shall in all cases be deemed the act or decision of the commission. Three commissioners shall preside over and decide all industrial disputes where the matter at issue is the comparability of wages, benefits, and terms and conditions of employment.

(4) The commission shall not be subject to the Administrative Procedure Act.

Source: Laws 1947, c. 178, § 4, p. 588; Laws 1969, c. 407, § 2, p. 1407; Laws 1974, LB 819, § 1; Laws 1979, LB 444, § 2; Laws 2007, LB472, § 2; Laws 2011, LB397, § 4.

Cross References

Administrative Procedure Act, see section 84-920.

48-809 Commission; powers.

The commission may adopt all reasonable and proper regulations to govern its proceedings, the filing of pleadings, the issuance and service of process, and the issuance of subpoenas for attendance of witnesses, may administer oaths, and may regulate the mode and manner of all its investigations, inspections, hearings, and trials. Except as otherwise provided in the Industrial Relations Act or the State Employees Collective Bargaining Act, in the taking of evidence, the rules of evidence, prevailing in the trial of civil cases in Nebraska, shall be observed by the commission.

Source: Laws 1947, c. 178, § 9, p. 590; Laws 2011, LB397, § 5.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-811 Commission; filing of petition; effect; change in employment status, wages, or terms and conditions of employment; motion; hearing; order authorized; exception.

(1) Except as provided in the State Employees Collective Bargaining Act, any public employer, public employee, or labor organization, or the Attorney General of Nebraska on his or her own initiative or by order of the Governor, when any industrial dispute exists between parties as set forth in section 48-810, may file a petition with the commission invoking its jurisdiction. No adverse action by threat or harassment shall be taken against any public employee because of any petition filing by such employee, and the employment status of such employee shall not be altered in any way pending disposition of the petition by the commission except as provided in subsection (2) of this section.

(2) If a change in the employment status or in wages or terms and conditions of employment is necessary, a motion by either party or by the parties jointly may be presented to the commission at that time and if the commission finds, based on a showing of evidence at a hearing thereon, that the requested change is both reasonable and necessary to serve an important public interest and that the employer has not considered a change in the employment status, wages, or terms and conditions of employment as a policy alternative on an equal basis with other policy alternatives to achieve budgetary savings, the commission

may order that the requested change be allowed pending final resolution of the pending industrial dispute.

(3) Subsection (2) of this section does not apply to public employers subject to the State Employees Collective Bargaining Act.

Source: Laws 1947, c. 178, § 11, p. 590; Laws 1969, c. 407, § 4, p. 1408; Laws 1987, LB 661, § 24; Laws 2011, LB397, § 6.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-811.02 Repealed. Laws 2011, LB 397, § 35.

48-813 Commission; notice of pendency of proceedings; service; response; filing; final offer; included with petition; included with answers; procedure; exception; hearing; waiver of notice.

(1) Whenever the jurisdiction of the commission is invoked, notice of the pendency of the proceedings shall be given in such manner as the commission shall provide for serving a copy of the petition and notice of filing upon the adverse party. A public employer or labor organization may be served by sending a copy of the petition filed to institute the proceedings and a notice of filing, which shall show the filing date, in the manner provided for service of a summons in a civil action. Such employer or labor organization shall have twenty days after receipt of the petition and notice of filing in which to serve and file its response.

(2) The petitioner shall include its final offer, as voted by the petitioner, the governing body, or the bargaining unit or as considered pursuant to a ratification process, with its petition. The respondent shall include its final offer, as voted by the respondent, the governing body, or the bargaining unit or as considered pursuant to a ratification process, with its answer. Within fourteen days after filing of the answer, the parties shall vote to accept or reject or consider pursuant to a ratification process the other's final offer and file a subsequent pleading indicating the result. The vote concerning the governing body's final offer shall be published on its agenda and held where the public may attend. The commission shall not enter a final order on wages or conditions of employment unless both parties have rejected the others' final offer. This subsection does not apply to public employers subject to the State Employees Collective Bargaining Act.

(3) When a petition is filed to resolve an industrial dispute, a hearing shall mandatorily be held within sixty days from the date of filing thereof. A recommended decision and order in cases arising under section 48-818, an order in cases not arising under section 48-818, and findings if required, shall mandatorily be made and entered thereon within thirty days after such hearing. The time requirements specified in this section may be extended for good cause shown on the record or by agreement of the parties. Failure to meet such mandatory time requirements shall not deprive the commission of jurisdiction. However, if the commission fails to hold a hearing on the industrial dispute within sixty days of filing or has failed to make a recommended decision and order, and findings of fact if required, in cases arising under section 48-818, or an order, and findings of fact if required, in cases not arising under section 48-818, and findings, within thirty days after the hearing and good cause is not shown on the record or the parties to the dispute have not jointly stipulated to the enlargement of the time limit, then either party may file an action for

mandamus in the district court for Lancaster County to require the commission to hold the hearing or to render its order and findings if required. For purposes of this section, the hearing on an industrial dispute shall not be deemed completed until the record is prepared and counsel briefs have been submitted, if such are required by the commission.

(4) Any party, including the State of Nebraska or any of its employer-representatives as defined in section 81-1371 or any political subdivision of the State of Nebraska, may waive such notice and may enter a voluntary appearance in any matter in the commission. The giving of such notice in such manner shall subject the public employers, the labor organizations, and the persons therein to the jurisdiction of the commission.

Source: Laws 1947, c. 178, § 13, p. 590; Laws 1972, LB 1228, § 2; Laws 1974, LB 819, § 7; Laws 1983, LB 447, § 72; Laws 1984, LB 832, § 1; Laws 1987, LB 661, § 25; Laws 2011, LB397, § 7.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-816 Preliminary proceedings; commission; powers; duties; collective bargaining; posttrial conference.

(1)(a) After a petition has been filed under section 48-811, the clerk shall immediately notify the commission which shall promptly take such preliminary proceedings as may be necessary to ensure prompt hearing and speedy adjudication of the industrial dispute. The commission may, upon its own initiative or upon request of a party to the dispute, make such temporary findings and orders as necessary to preserve and protect the status of the parties, property, and public interest involved pending final determination of the issues. In the event of an industrial dispute between a public employer and a public employee or a labor organization when such public employer and public employee or labor organization have failed or refused to bargain in good faith concerning the matters in dispute, the commission may order such bargaining to begin or resume, as the case may be, and may make any such order or orders as appropriate to govern the situation pending such bargaining. The commission shall require good faith bargaining concerning the terms and conditions of employment of its employees by any public employer. Upon the request of either party, the commission shall require the parties to an industrial dispute to submit to mediation or factfinding. Before July 1, 2012, upon the request of both parties, a special master may be appointed if the parties are within the provisions of section 48-811.02. On and after July 1, 2012, upon the request of either party, a resolution officer may be appointed if the parties are within the provisions of section 48-818.01. The commission shall appoint mediators, factfinders, or before July 1, 2012, special masters and on and after such date resolution officers for such purpose. Such orders for bargaining, mediation, factfinding, or before July 1, 2012, a special master proceeding and on and after such date a resolution officer proceeding may be issued at any time during the pendency of an action to resolve an industrial dispute. To bargain in good faith means the performance of the mutual obligation of the public employer and the labor organization to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obli-

gation does not compel either party to agree to a proposal or require the making of a concession.

(b) In negotiations between a municipality, municipally owned utility, or county and a labor organization, staffing related to issues of safety shall be mandatory subjects of bargaining and staffing relating to scheduling work, such as daily staffing, staffing by rank, and overall staffing requirements, shall be permissive subjects of bargaining.

(2) Except as provided in the State Employees Collective Bargaining Act, public employers may recognize employee organizations for the purpose of negotiating collectively in the determination of and administration of grievances arising under the terms and conditions of employment of their public employees as provided in the Industrial Relations Act and may negotiate and enter into written agreements with such employee organizations in determining such terms and conditions of employment.

(3)(a) Except as provided in subdivisions (b) and (c) of this subsection, a supervisor shall not be included in a single bargaining unit with any other public employee who is not a supervisor.

(b) All firefighters and police officers employed in the fire department or police department of any municipality in a position or classification subordinate to the chief of the department and his or her immediate assistant or assistants holding authority subordinate only to the chief shall be presumed to have a community of interest and may be included in a single bargaining unit represented by a public employee organization for the purposes of the Industrial Relations Act. Public employers shall be required to recognize a public employees bargaining unit composed of firefighters and police officers holding positions or classifications subordinate to the chief of the fire department or police department and his or her immediate assistant or assistants holding authority subordinate only to the chief when such bargaining unit is designated or elected by public employees in the unit.

(c) All administrators employed by a Class V school district shall be presumed to have a community of interest and may join a single bargaining unit composed otherwise of teachers and other certificated employees for purposes of the Industrial Relations Act, except that the following administrators shall be exempt: The superintendent, associate superintendent, assistant superintendent, secretary and assistant secretary of the board of education, executive director, administrators in charge of the offices of state and federal relations and research, chief negotiator, and administrators in the immediate office of the superintendent. A Class V school district shall recognize a public employees bargaining unit composed of teachers and other certificated employees and administrators, except the exempt administrators, when such bargaining unit is formed by the public employees as provided in section 48-838 and may recognize such a bargaining unit as provided in subsection (2) of this section. In addition, all administrators employed by a Class V school district, except the exempt administrators, may form a separate bargaining unit represented either by the same bargaining agent for all collective-bargaining purposes as the teachers and other certificated employees or by another collective-bargaining agent of such administrators' choice. If a separate bargaining unit is formed by election as provided in section 48-838, a Class V school district shall recognize the bargaining unit and its agent for all purposes of collective bargaining. Such

separate bargaining unit may also be recognized by a Class V school district as provided in subsection (2) of this section.

(4) When a public employee organization has been certified as an exclusive collective-bargaining agent or recognized pursuant to any other provisions of the Industrial Relations Act, the appropriate public employer shall be and is hereby authorized to negotiate collectively with such public employee organization in the settlement of grievances arising under the terms and conditions of employment of the public employees as provided in such act and to negotiate and enter into written agreements with such public employee organizations in determining such terms and conditions of employment, including wages and hours.

(5) Upon receipt by a public employer of a request from a labor organization to bargain on behalf of public employees, the duty to engage in good faith bargaining shall arise if the labor organization has been certified by the commission or recognized by the public employer as the exclusive bargaining representative for the public employees in that bargaining unit.

(6) A party to an action filed with the commission may request the commission to send survey forms or data request forms. The requesting party shall prepare its own survey forms or data request forms and shall provide the commission the names and addresses of the entities to whom the documents shall be sent, not to exceed twenty addresses in any case. All costs resulting directly from the reproduction of such survey or data request forms and the cost of mailing such forms shall be taxed by the commission to the requesting party. The commission may (a) make studies and analyses of and act as a clearinghouse of information relating to conditions of employment of public employees throughout the state, (b) request from any government, and such governments are authorized to provide, such assistance, services, and data as will enable it properly to carry out its functions and powers, (c) conduct studies of problems involved in representation and negotiation, including, but not limited to, those subjects which are for determination solely by the appropriate legislative body, and make recommendations from time to time for legislation based upon the results of such studies, (d) make available to public employee organizations, governments, mediators, factfinding boards and joint study committees established by governments, and public employee organizations statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve complex issues in negotiations, and (e) establish, after consulting representatives of public employee organizations and administrators of public services, panels of qualified persons broadly representative of the public to be available to serve as mediators, before July 1, 2012, special masters and on and after such date resolution officers, or members of factfinding boards.

(7)(a) Except for those cases arising under section 48-818, the commission shall make findings of facts in all cases in which one of the parties to the dispute requests findings. Such request shall be specific as to the issues on which the party wishes the commission to make findings of fact.

(b) In cases arising under section 48-818, findings of fact shall not be required of the commission unless both parties to the dispute stipulate to the request and to the specific issues on which findings of fact are to be made.

(c) If findings of fact are requested under subdivision (a) or (b) of this subsection, the commission may require the parties making the request to

submit proposed findings of fact to the commission on the issues on which findings of facts are requested.

(d) In cases arising under section 48-818, the commission shall issue a recommended decision and order, which decision and order shall become final within twenty-five days of entry unless either party to the dispute files with the commission a request for a posttrial conference. If such a request is filed, the commission shall hold a posttrial conference within ten days of receipt of such request and shall issue an order within ten days after holding such posttrial conference, which order shall become the final order in the case. The purpose of such posttrial conference shall be to allow the commission to hear from the parties on those portions of the recommended decision and order which is not based upon or which mischaracterizes evidence in the record and to allow the commission to correct any such errors after having heard the matter in a conference setting in which all parties are represented.

Source: Laws 1947, c. 178, § 16, p. 591; Laws 1967, c. 303, § 2, p. 825; Laws 1969, c. 407, § 5, p. 1408; Laws 1972, LB 1402, § 1; Laws 1972, LB 1228, § 3; Laws 1979, LB 444, § 5; Laws 1984, LB 832, § 2; Laws 1985, LB 213, § 2; Laws 1986, LB 809, § 5; Laws 1987, LB 524, § 2; Laws 1987, LB 661, § 26; Laws 1988, LB 519, § 1; Laws 1988, LB 684, § 1; Laws 1988, LB 942, § 1; Laws 1995, LB 365, § 2; Laws 2011, LB397, § 8.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-817 Commission; findings; decisions; orders.

After the hearing and any investigation, the commission shall make all findings, findings of fact, recommended decisions and orders, and decisions and orders in writing, which findings, findings of fact, recommended decisions and orders, and decisions and orders shall be entered of record. Except as provided in the State Employees Collective Bargaining Act, the final decision and order or orders shall be in effect from and after the date therein fixed by the commission, but no such order or orders shall be retroactive except as provided otherwise in the Industrial Relations Act. Except as provided otherwise in the Industrial Relations Act, in the making of any findings or orders in connection with any such industrial dispute, the commission shall give no consideration to any evidence or information which it may obtain through an investigation or otherwise receive, except matters of which the district court might take judicial notice, unless such evidence or information is presented and made a part of the record in a hearing and opportunity is given, after reasonable notice to all parties to the controversy of the initiation of any investigation and the specific contents of the evidence or information obtained or received, to rebut such evidence or information either by cross-examination or testimony.

Source: Laws 1947, c. 178, § 17, p. 592; Laws 1979, LB 444, § 7; Laws 1984, LB 832, § 3; Laws 1987, LB 661, § 27; Laws 2011, LB397, § 9.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-818 Commission; findings; order; powers; duties; orders authorized; modification.

(1) Except as provided in the State Employees Collective Bargaining Act, the findings and order or orders may establish or alter the scale of wages, hours of labor, or conditions of employment, or any one or more of the same. In making such findings and order or orders, the commission shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions. In establishing wage rates the commission shall take into consideration the overall compensation presently received by the employees, having regard not only to wages for time actually worked but also to wages for time not worked, including vacations, holidays, and other excused time, and all benefits received, including insurance and pensions, and the continuity and stability of employment enjoyed by the employees. Any order or orders entered may be modified on the commission's own motion or on application by any of the parties affected, but only upon a showing of a change in the conditions from those prevailing at the time the original order was entered.

(2) For purposes of industrial disputes involving public employers other than school districts, educational service units, and community colleges with their certificated and instructional employees and public employers subject to the State Employees Collective Bargaining Act:

(a) Job matches shall be sufficient for comparison if (i) evidence supports at least a seventy percent match based on a composite of the duties and time spent performing those duties and (ii) at least three job matches per classification are available for comparison. If three job matches are not available, the commission shall base its order on the historic relationship of wages paid to such position over the last three fiscal years, for which data is available, as compared to wages paid to a position for which a minimum of three job matches are available;

(b) The commission shall adhere to the following criteria when establishing an array:

(i) Geographically proximate public employers and Nebraska public employers are preferable for comparison;

(ii) The preferred size of an array is seven to nine members. As few as five members may be chosen if all array members are Nebraska employers. The commission shall include members mutually agreed to by the parties in the array;

(iii) If more than nine employers with job matches are available, the commission shall limit the array to nine members, based upon selecting array members with the highest number of job matches at the highest job match percentage;

(iv) Nothing in this subdivision (2)(b) of this section shall prevent parties from stipulating to an array member that does not otherwise meet the criteria in such subdivision, and nothing in such subdivision shall prevent parties from stipulating to less than seven or more than nine array members;

(v) The commission shall not require a balanced number of larger or smaller employers or a balanced number of Nebraska or out-of-state employers;

(vi) If the array includes a public employer in a metropolitan statistical area other than the metropolitan statistical area in which the employer before the

commission is located, only one public employer from such metropolitan statistical area may be included in the array;

(vii) Arrays for public utilities with annual revenue of five hundred million dollars or more shall include both comparable public and privately owned utilities. Arrays for public utilities with annual revenue of less than five hundred million dollars may include both comparable public and privately owned utilities. Public utilities that produce radioactive material and energy pursuant to section 70-627.02 shall have at least four members in its array that produce radioactive material and energy when employees directly involved in this production are included in the bargaining unit. For public utilities that generate, transmit, and distribute power, the array shall include members that also perform these functions. For a public utility serving a city of the primary class, the array shall only include public power districts in Nebraska that generate, transmit, and distribute power and any out-of-state utilities whose number of meters served is not more than double or less than one-half of the number of meters served by the public utility serving a city of the primary class unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar;

(viii) In constructing an array for a public utility, the commission shall use fifty-mile concentric circles until it reaches the optimum array pursuant to subdivision (2)(b)(ii) of this section; and

(ix) For a statewide public utility that provides service to a majority of the counties in Nebraska, any Nebraska public or private job match may be used without regard to the population or full-time equivalent employment requirements of this section, and any out-of-state job match may be used if the full-time equivalent employment of the out-of-state employer is no more than double and no less than one-half of the full-time equivalent employment of the bargaining unit of the statewide public utility in question;

(c) In determining same or similar working conditions, the commission shall adhere to the following:

(i) Public employers in Nebraska shall be presumed to provide same or similar working conditions unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar;

(ii) Public employers shall be presumed to provide the same or similar working conditions if (A) for public employers that are counties or municipalities, the population of such public employer is not more than double or less than one-half of the population of the public employer before the commission, unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar, (B) for public employers that are public utilities, the number of such public employer's employees is not more than double or less than one-half of the number of employees of the public employer before the commission, unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar, or (C) for public employers that are school districts, educational service units, or community colleges with noncertificated and noninstructional school employees, the student enrollment of such public employer is not more than double or less than one-half of the student enrollment of the public employer before the commission, unless evidence establishes that there are

substantial differences which cause the work or conditions of employment to be dissimilar;

(iii)(A) Public employers located within a metropolitan statistical area who meet the population requirements of subdivision (2)(c)(ii)(A) of this section, if the public employer is a county or municipality, or the student enrollment requirements of subdivision (2)(c)(ii)(C) of this section, if the public employer is a school district or an educational service unit, shall be presumed to provide the same or similar working conditions if the metropolitan statistical area population in which they are located is not more than double or less than one-half the metropolitan statistical area population of the public employer before the commission, unless evidence establishes that there are substantial differences which cause the work or conditions of employment to be dissimilar.

(B) The presumption created by subdivision (2)(c)(iii)(A) of this section may be overcome in situations where evidence establishes that there are substantial similarities which cause the work or conditions of employment to be similar, allowing the commission to consider public employers located within a metropolitan statistical area even if the metropolitan statistical area population in which that employer or employers are located is more than double or less than one-half the metropolitan statistical area population of the public employer before the commission. The burden of establishing sufficient similarity is on the party seeking to include a public employer pursuant to this subdivision (2)(c)(iii)(B) of this section; and

(iv) Public employers other than public utilities which are not located within a metropolitan statistical area shall not be compared to public employers located in a metropolitan statistical area. For purposes of this subdivision, metropolitan statistical area includes municipalities with populations of fifty thousand inhabitants or more;

(d) Prevalent shall be determined as follows: (i) For numeric values, prevalent shall be the midpoint between the arithmetic mean and the arithmetic median. For fringe benefits, prevalent shall be the midpoint between the arithmetic mean and the arithmetic median as long as a majority of the array members provide the benefit; and (ii) for nonnumeric comparisons, prevalent shall be the mode that the majority of the array members provide if the compared-to benefit is similar in nature. If there is no clear mode, the benefit or working condition shall remain unaltered by the commission;

(e) For any out-of-state employer, the parties may present economic variable evidence and the commission shall determine what, if any, adjustment is to be made if such evidence is presented. The commission shall not require that any such economic variable evidence be shown to directly impact the wages or benefits paid to employees by such out-of-state employer;

(f) In determining total or overall compensation, the commission shall value every economic item even if the year in question has expired. The commission shall require that all wage and benefit levels be leveled over the twelve-month period in dispute to account for increases or decreases which occur in the wage or benefit levels provided by any array member during such twelve-month period;

(g) In cases filed pursuant to this subsection (2) of this section, the commission shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than those adopted by rule pursuant to section 48-809. The commission shall receive evidence relating

to array selection, job match, and wages and benefits which have been assembled by telephone, electronic transmission, or mail delivery, and any such evidence shall be accompanied by an affidavit from the employer or any other person with personal knowledge which affidavit shall demonstrate the affiant's personal knowledge and competency to testify on the matters thereon. The commission, with the consent of the parties to the dispute, and in the presence of the parties to the dispute, may contact an individual employed by an employer under consideration as an array member by telephone to inquire as to the nature or value of a working condition, wage, or benefit provided by that particular employer as long as the individual in question has personal knowledge about the information being sought. The commission may rely upon information gained in such inquiry for its decision. Opinion testimony shall be received by the commission based upon evidence provided in accordance with this subdivision. Testimony concerning job match shall be received if job match inquiries were conducted by telephone, electronic transmission, or mail delivery if the witness providing such testimony verifies the method of such job match inquiry and analysis;

(h) In determining the value of defined benefit and defined contribution retirement plans and health insurance plans or health benefit plans, the commission shall use an hourly rate value calculation as follows:

(i) Once the array has been chosen, each array member and the public employer of the subject bargaining unit shall provide a copy of its most recent defined benefit pension actuarial valuation report. Each array member and the public employer of the subject bargaining unit shall provide the most recent copy of its health insurance plans or health benefit plans, covering the preceding twelve-month period, with associated employer and employee costs, to the parties and the commission. Each array member shall also provide information concerning premium equivalent payments and contributions for health savings accounts. Each array member and the public employer of the subject bargaining unit shall indicate which plans are most used. The plans that are most used shall be used for comparison;

(ii) Once the actuarial valuation reports are received, the parties shall have thirty calendar days to determine whether to have the pensions actuarially valued at an hourly rate value other than equal. The hourly rate value for defined benefit plans shall be presumed to be equal to that of the array selected unless one or both of the parties presents evidence establishing that the actuarially derived annual normal cost of the pension benefit for each job classification in the subject bargaining unit is above or below the midpoint of the average normal cost. Consistent methods and assumptions are to be applied to determine the annual normal cost of any defined benefit pension plan of the subject bargaining unit and each array member. For this purpose, the entry age normal actuarial cost method is recommended. The actuarial assumptions that are selected for this purpose should reflect expectations for a defined benefit pension plan maintained for the employees of the subject bargaining unit and acknowledge the eligibility and benefit provisions for each respective defined benefit pension plan. In this regard, different eligibility and benefit provisions may suggest different retirement or termination of employment assumptions. The methods and assumptions shall be attested to by an actuary holding a current membership with the American Academy of Actuaries. Any party who requests or presents evidence regarding actuarial valuation of a defined benefit plan shall be responsible for costs associated with such valuation and testimo-

ny. The actuarial valuation is presumed valid, unless a party presents competent actuarial evidence that the valuation is invalid;

(iii) The hourly rate value for defined contribution plans shall be established upon comparison of employer contributions;

(iv) The hourly rate value for health insurance plans or health benefit plans shall be established based upon the public employer's premium payments, premium equivalent payments, and public employer and public employee contributions to health savings accounts;

(v) The commission shall not compare defined benefit plans to defined contribution plans or defined contribution plans to defined benefit plans; and

(vi) The commission shall order increases or decreases in wage rates by job classification based upon the hourly rate value for health-related benefits, benefits provided for retirement plans, and wages;

(i) For benefits other than defined benefit and defined contribution retirement plans and health insurance plans or health benefit plans, the commission shall issue an order based upon a determination of prevalency as determined under subdivision (2)(d) of this section; and

(j) The commission shall issue an order regarding increases or decreases in base wage rates or benefits as follows:

(i) The order shall be retroactive with respect to increases and decreases to the beginning of the bargaining year in dispute;

(ii) The commission shall determine whether the hourly rate value of the bargaining unit's members or classification falls within a ninety-eight percent to one hundred two percent range of the array's midpoint. If the hourly rate value falls within the ninety-eight percent to one hundred two percent range, the commission shall order no change in wage rates. If the hourly rate value is less than ninety-eight percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint. If the hourly rate value is more than one hundred two percent of the midpoint, the commission shall enter an order decreasing wage rates to one hundred two percent of the midpoint. If the hourly rate value is more than one hundred seven percent of the midpoint, the commission shall enter an order reducing wage rates to one hundred two percent of the midpoint in three equal annual reductions. If the hourly rate value is less than ninety-three percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint in three equal annual increases. If the commission finds that the year in dispute occurred during a time of recession, the applicable range will be ninety-five percent to one hundred two percent. For purposes of this subdivision (2)(j) of this section, recession occurrence means the two nearest quarters in time, excluding the immediately preceding quarter, to the effective date of the contract term in which the sum of the net state sales and use tax, individual income tax, and corporate income tax receipts are less than the same quarters for the prior year. Each of these receipts shall be rate and base adjusted for state law changes. The Department of Revenue shall report and publish such receipts on a quarterly basis;

(iii) The parties shall have twenty-five calendar days to negotiate modifications to wages and benefits. If no agreement is reached, the commission's order shall be followed as issued; and

(iv) The commission shall provide an offset to the public employer when a lump-sum payment is due because benefits were paid in excess of the prevalent as determined under subdivision (2)(d) of this section or when benefits were paid below the prevalent as so determined but wages were above prevalent.

Source: Laws 1947, c. 178, § 18, p. 592; Laws 1969, c. 407, § 6, p. 1410; Laws 1987, LB 661, § 28; Laws 2011, LB397, § 10.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-818.01 School districts, educational service units, and community colleges; collective bargaining; timelines; procedure; resolution officer; powers; duties; action filed with commission; when; collective-bargaining agreement; contents.

(1) The Legislature finds that it is in the public's interest that collective bargaining involving school districts, educational service units, and community colleges and their certificated and instructional employees commence and conclude in a timely fashion consistent with school district budgeting and financing requirements. To that end, the timelines in this section shall apply when the public employer is a school district, educational service unit, or community college.

(2) On or before September 1 of the year preceding the contract year in question, the certificated and instructional employees' collective-bargaining agent shall request recognition as bargaining agent. The governing board shall respond to such request not later than the following October 1. A request for recognition need not be filed if the certificated and instructional employees' bargaining agent has been certified by the commission as the exclusive collective-bargaining agent. On or before November 1 of the year preceding the contract year in question, negotiations shall begin. There shall be no fewer than four negotiations meetings between the certificated and instructional employees' collective-bargaining agent and the governing board's bargaining agent. Either party may seek a bargaining order pursuant to subsection (1) of section 48-816 at any stage in the negotiations. If an agreement is not reached on or before the following February 8, the parties shall submit to mandatory mediation or factfinding as ordered by the commission pursuant to sections 48-811 and 48-816 unless the parties mutually agree in writing to forgo mandatory mediation or factfinding.

(3)(a) The mediator or factfinder as ordered by the commission under subsection (2) of this section shall be a resolution officer. The commission shall provide the parties with the names of five individuals qualified to serve as the resolution officer. If the parties cannot agree on an individual, each party shall alternately strike names. The remaining individual shall serve as the resolution officer.

(b) The resolution officer may:

- (i) Determine whether the issues are ready for adjudication;
- (ii) Identify for resolution terms and conditions of employment that are in dispute and which were negotiated in good faith but upon which no agreement was reached;
- (iii) Accept stipulations;
- (iv) Schedule hearings;

- (v) Prescribe rules of conduct for conferences;
- (vi) Order additional mediation if necessary;
- (vii) Take any other action which may aid in resolution of the industrial dispute; and
- (viii) Consult with a party ex parte only with the concurrence of all parties.

(c) The resolution officer shall choose the most reasonable final offer on each issue in dispute. In making such choice, he or she shall consider factors relevant to collective bargaining between public employers and public employees, including comparable rates of pay and conditions of employment as described in subsection (1) of section 48-818. The resolution officer shall not apply strict rules of evidence. Persons who are not attorneys may present cases to the resolution officer.

(d) If either party to a resolution officer proceeding is dissatisfied with the resolution officer's decision, such party shall have the right to file an action with the commission seeking a determination of terms and conditions of employment pursuant to subsection (1) of section 48-818. Such action shall not constitute an appeal of the resolution officer's decision, but rather shall be heard by the commission as an action brought pursuant to subsection (1) of section 48-818. The commission shall resolve, pursuant to the mandates of such section, all of the issues identified by either party and which were recognized by the resolution officer as an industrial dispute. If parties have not filed with the commission pursuant to subsection (6) of this section, the decision of the resolution officer shall be deemed final and binding.

(4) For purposes of this section, issue means broad subjects of negotiation which are presented to the resolution officer pursuant to this section. All aspects of wages are a single issue, all aspects of insurance are a single issue, and all other subjects of negotiations classified in broad categories are single issues.

(5) On or before March 25 of the year preceding the contract year in question or within twenty-five days after the certification of the amounts to be distributed to each local system and each school district pursuant to the Tax Equity and Educational Opportunities Support Act as provided in section 79-1022 for the contract year in question, whichever occurs last in time, negotiations, mediation, and factfinding shall end.

(6) If an agreement for the contract year in question has not been achieved on or before the date for negotiation, mediation, or factfinding to end in subsection (5) of this section, either party may, within fourteen days after such date, file a petition with the commission pursuant to section 48-811 and subsection (1) of section 48-818 to resolve the industrial dispute for the contract year in question. The commission shall render a decision on such industrial dispute on or before September 15 of the contract year in question.

(7) Any existing collective-bargaining agreement will continue in full force and effect until superseded by further agreement of the parties or by an order of the commission. The parties may continue to negotiate unresolved issues by mutual agreement while the matter is pending with the commission.

(8) All collective-bargaining agreements shall be written and executed by representatives of the governing board and representatives of the certificated and instructional employees' bargaining unit. The agreement shall contain at a minimum the following:

(a) A salary schedule or objective method of determining salaries;

(b) A description of benefits being provided or agreed upon including a specific level of coverage provided in any group insurance plan, a dollar amount, or percentage of premiums to be paid, and by whom; and

(c) A provision that the existing agreement will continue until replaced by a successor agreement or as amended by a final order of the commission.

Source: Laws 2011, LB397, § 11.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

48-818.02 School district, educational service unit, or community college; total compensation; considerations.

When determining total compensation pursuant to subsection (1) of section 48-818 for a school district, educational service unit, or community college with their certificated and instructional employees, the commission shall consider the employer's contribution to retirement plans and health insurance premiums, premium equivalent payments, or cash equivalent payments and any other costs, including Federal Insurance Contributions Act contributions, associated with providing such benefits.

Source: Laws 2011, LB397, § 12.

48-818.03 School district, educational service unit, or community college; wage rates; commission; duties; orders authorized.

When establishing wage rates pursuant to subsection (1) of section 48-818 for a school district, educational service unit, or community college with their certificated and instructional employees, the commission shall determine whether the total compensation of the members of the bargaining unit or classification falls within a ninety-eight percent to one hundred two percent range of the array's midpoint. If the total compensation falls within the ninety-eight percent to one hundred two percent range, the commission shall order no change in wage rates. If the total compensation is less than ninety-eight percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint. If the total compensation is more than one hundred two percent of the midpoint, the commission shall enter an order decreasing wage rates to one hundred two percent of the midpoint. If the total compensation is more than one hundred seven percent of the midpoint, the commission shall enter an order reducing wage rates to one hundred two percent of the midpoint in three equal annual reductions. If the total compensation is less than ninety-three percent of the midpoint, the commission shall enter an order increasing wage rates to ninety-eight percent of the midpoint in three equal annual increases. If the commission finds that the year in dispute occurred during a time of recession, the applicable range will be ninety-five percent to one hundred two percent. For purposes of this section, recession occurrence means the two nearest quarters in time, excluding the immediately preceding quarter, to the effective date of the contract term in which the sum of the net state sales and use tax, individual income tax, and corporate income tax receipts are less than the same quarters for the prior year. Each of these

receipts shall be rate and base adjusted for state law changes. The Department of Revenue shall report and publish such receipts on a quarterly basis.

Source: Laws 2011, LB397, § 13.

48-824 Labor negotiations; prohibited practices.

(1) It is a prohibited practice for any public employer, public employee, public employee organization, or collective-bargaining agent to refuse to negotiate in good faith with respect to mandatory topics of bargaining.

(2) It is a prohibited practice for any public employer or the public employer's negotiator to:

(a) Interfere with, restrain, or coerce employees in the exercise of rights granted by the Industrial Relations Act;

(b) Dominate or interfere in the administration of any public employee organization;

(c) Encourage or discourage membership in any public employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment;

(d) Discharge or discriminate against a public employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under the Industrial Relations Act or because the public employee has formed, joined, or chosen to be represented by any public employee organization;

(e) Refuse to negotiate collectively with representatives of collective-bargaining agents as required by the Industrial Relations Act;

(f) Deny the rights accompanying certification or recognition granted by the Industrial Relations Act; and

(g) Refuse to participate in good faith in any impasse procedures for public employees as set forth in the Industrial Relations Act.

(3) It is a prohibited practice for any public employee, public employee organization, or bargaining unit or for any representative or collective-bargaining agent to:

(a) Interfere with, restrain, coerce, or harass any public employee with respect to any of the public employee's rights granted by the Industrial Relations Act;

(b) Interfere with, restrain, or coerce a public employer with respect to rights granted by the Industrial Relations Act or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances;

(c) Refuse to bargain collectively with a public employer as required by the Industrial Relations Act; and

(d) Refuse to participate in good faith in any impasse procedures for public employees as set forth in the Industrial Relations Act.

(4) The expressing of any view, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, is not evidence of any unfair labor practice under any of the provisions of the Industrial Relations

Act if such expression contains no threat of reprisal or force or promise of benefit.

Source: Laws 1995, LB 382, § 1; Laws 2011, LB397, § 14.

48-838 Collective bargaining; questions of representation; elections; non-member employee duty to reimburse; when.

(1) The commission shall determine questions of representation for purposes of collective bargaining for and on behalf of public employees and shall make rules and regulations for the conduct of elections to determine the exclusive collective-bargaining agent for public employees, except that in no event shall a contract between a public employer and an exclusive collective-bargaining agent act as a bar for more than three years to any other party seeking to represent public employees, nor shall any contract bar for more than three years a petition by public employees seeking an election to revoke the authority of an agent to represent them. Except as provided in the State Employees Collective Bargaining Act, the commission shall certify the exclusive collective-bargaining agent for employees affected by the Industrial Relations Act following an election by secret ballot, which election shall be conducted according to rules and regulations established by the commission.

(2) The election shall be conducted by one member of the commission who shall be designated to act in such capacity by the presiding officer of the commission, or the commission may appoint the clerk of the district court of the county in which the principal office of the public employer is located to conduct the election in accordance with the rules and regulations established by the commission. Except as provided in the State Employees Collective Bargaining Act, the commission shall also determine the appropriate unit for bargaining and for voting in the election, and in making such determination, the commission shall consider established bargaining units and established policies of the public employer. It shall be presumed, in the case of governmental subdivisions such as municipalities, counties, power districts, or utility districts with no previous history of collective bargaining, that units of public employees of less than departmental size shall not be appropriate.

(3) Except as provided in the State Employees Collective Bargaining Act, the commission shall not order an election until it has determined that at least thirty percent of the employees in an appropriate unit have requested in writing that the commission hold such an election. Such request in writing by an employee may be in any form in which an employee specifically either requests an election or authorizes the employee organization to represent him or her in bargaining, or otherwise evidences a desire that an election be conducted. Such request of an employee shall not become a matter of public record. No election shall be ordered in one unit more than once a year.

(4) Except as provided in the State Employees Collective Bargaining Act, the commission shall only certify an exclusive collective-bargaining agent if a majority of the employees voting in the election vote for the agent. A certified exclusive collective-bargaining agent shall represent all employees in the appropriate unit with respect to wages, hours, and conditions of employment, except that such right of exclusive recognition shall not preclude any employee, regardless of whether or not he or she is a member of a labor organization, from bringing matters to the attention of his or her superior or other appropriate officials.

Any employee may choose his or her own representative in any grievance or legal action regardless of whether or not an exclusive collective-bargaining agent has been certified. If an employee who is not a member of the labor organization chooses to have legal representation from the labor organization in any grievance or legal action, such employee shall reimburse the labor organization for his or her pro rata share of the actual legal fees and court costs incurred by the labor organization in representing the employee in such grievance or legal action.

The certification of an exclusive collective-bargaining agent shall not preclude any public employer from consulting with lawful religious, social, fraternal, or other similar associations on general matters affecting public employees so long as such contracts do not assume the character of formal negotiations in regard to wages, hours, and conditions of employment. Such consultations shall not alter any collective-bargaining agreement which may be in effect.

Source: Laws 1972, LB 1228, § 4; Laws 1974, LB 819, § 10; Laws 1986, LB 809, § 10; Laws 1987, LB 661, § 30; Laws 2002, LB 29, § 1; Laws 2007, LB472, § 7; Laws 2011, LB397, § 15.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

48-839 Changes made by Laws 2011, LB397; applicability.

Changes made to the Industrial Relations Act by Laws 2011, LB397, shall apply to petitions filed with the commission on or after October 1, 2011, except for petitions filed involving school districts, educational service units, and community colleges with their certificated and instructional employees for which such changes shall apply on or after July 1, 2012.

Source: Laws 2011, LB397, § 16.

ARTICLE 11

NEBRASKA FAIR EMPLOYMENT PRACTICE ACT

Section

- 48-1102. Terms, defined.
- 48-1107.01. Unlawful employment practice for covered entity.
- 48-1107.02. Qualified individual with a disability; individual who is pregnant, who has given birth, or who has a related medical condition; discrimination, defined.
- 48-1109. Repealed. Laws 2015, LB 627, § 7.
- 48-1111. Different standards of compensation, conditions, or privileges of employment; lawful employment practices; effect of pregnancy and related medical conditions.
- 48-1117. Commission; powers; duties; enumerated.
- 48-1119. Unlawful practice; complaint; notice; hearing; witnesses; evidence; findings; civil action authorized; order.

48-1102 Terms, defined.

For purposes of the Nebraska Fair Employment Practice Act, unless the context otherwise requires:

(1) Person shall include one or more individuals, labor unions, partnerships, limited liability companies, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers;

(2) Employer shall mean a person engaged in an industry who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, any agent of such a person, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act regardless of the number of employees and shall include the State of Nebraska, governmental agencies, and political subdivisions, but such term shall not include (a) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe or (b) a bona fide private membership club, other than a labor organization, which is exempt from taxation under section 501(c) of the Internal Revenue Code;

(3) Labor organization shall mean any organization which exists wholly or in part for one or more of the following purposes: Collective bargaining; dealing with employers concerning grievances, terms, or conditions of employment; or mutual aid or protection in relation to employment;

(4) Employment agency shall mean any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and shall include an agent of such a person but shall not include an agency of the United States, except that such term shall include the United States Employment Service and the system of state and local employment services receiving federal assistance;

(5) Covered entity shall mean an employer, an employment agency, a labor organization, or a joint labor-management committee;

(6) Privileges of employment shall mean terms and conditions of any employer-employee relationship, opportunities for advancement of employees, and plant conveniences;

(7) Employee shall mean an individual employed by an employer;

(8) Commission shall mean the Equal Opportunity Commission;

(9) Disability shall mean (a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual, (b) a record of such an impairment, or (c) being regarded as having such an impairment. Disability shall not include homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender-identity disorders not resulting in physical impairments, other sexual behavior disorders, problem gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from current illegal use of drugs;

(10)(a) Qualified individual with a disability shall mean an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job;

(b) Qualified individual with a disability shall not include any employee or applicant who is currently engaged in the illegal use of drugs when the covered entity acts on the basis of such use; and

(c) Nothing in this subdivision shall be construed to exclude as a qualified individual with a disability an individual who:

(i) Has successfully completed a supervised drug rehabilitation program or otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;

(ii) Is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(iii) Is erroneously regarded as engaging in such use but is not engaging in such use;

(11) Reasonable accommodation, with respect to disability, shall include making existing facilities used by employees readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training manuals, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Reasonable accommodation, with respect to pregnancy, childbirth, or related medical conditions, shall include acquisition of equipment for sitting, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light-duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for breast-feeding or expressing breast milk. Reasonable accommodation shall not include accommodations which the covered entity can demonstrate require significant difficulty or expense thereby posing an undue hardship upon the covered entity. Factors to be considered in determining whether an accommodation would pose an undue hardship shall include:

(a) The nature and the cost of the accommodation needed under the Nebraska Fair Employment Practice Act;

(b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(c) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type, and location of its facilities; and

(d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity;

(12) Marital status shall mean the status of a person whether married or single;

(13) Because of sex or on the basis of sex shall include, but not be limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions;

(14) Harass because of sex shall include making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature if (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (c) such conduct has the purpose or

effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment;

(15) Unlawful under federal law or the laws of this state shall mean acting contrary to or in defiance of the law or disobeying or disregarding the law;

(16) Drug shall mean a controlled substance as defined in section 28-401;

(17) Illegal use of drugs shall mean the use of drugs, the possession or distribution of which is unlawful under the Uniform Controlled Substances Act, but shall not include the use of a drug taken under supervision by a licensed health care professional or any other use authorized by the Uniform Controlled Substances Act or other provisions of state law; and

(18) Individual who is pregnant, who has given birth, or who has a related medical condition shall mean an individual with a known limitation who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds, desires, or may be temporarily assigned to. Consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

Source: Laws 1965, c. 276, § 2, p. 783; Laws 1967, c. 306, § 1, p. 829; Laws 1969, c. 120, § 21, p. 551; Laws 1973, LB 265, § 2; Laws 1973, LB 266, § 2; Laws 1977, LB 161, § 1; Laws 1979, LB 67, § 1; Laws 1983, LB 626, § 74; Laws 1984, LB 14A, § 1; Laws 1985, LB 324, § 1; Laws 1986, LB 1108, § 1; Laws 1989, LB 176, § 1; Laws 1993, LB 121, § 297; Laws 1993, LB 124, § 1; Laws 1993, LB 360, § 3; Laws 2004, LB 1083, § 98; Laws 2015, LB627, § 1.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

Uniform Controlled Substances Act, see section 28-401.01.

48-1107.01 Unlawful employment practice for covered entity.

It shall be an unlawful employment practice for a covered entity to:

(1) Discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment; or

(2) Discriminate against an individual who is pregnant, who has given birth, or who has a related medical condition in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Source: Laws 1993, LB 360, § 5; Laws 2015, LB627, § 2.

48-1107.02 Qualified individual with a disability; individual who is pregnant, who has given birth, or who has a related medical condition; discrimination, defined.

(1) When referring to a qualified individual with a disability, discrimination shall include:

(a) Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee;

(b) Participating in a contractual or other arrangement or relationship that has the effect of subjecting a qualified individual with a disability to discrimination in the application or employment process, including a relationship with an employment agency, a labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs;

(c) Utilizing standards, criteria, or methods of administration (i) that have the effect of discrimination on the basis of disability or (ii) that perpetuate the discrimination against others who are subject to common administrative control;

(d) Excluding or otherwise denying equal jobs or benefits to a qualified individual with a disability because of the known disability of an individual with whom the qualified individual with a disability is known to have a relationship or association;

(e) Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity;

(f) Denying employment opportunities to a job applicant or employee who is otherwise a qualified individual with a disability if the denial is based upon the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(g) Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity;

(h) Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or whatever other factor of the applicant or employee that the test purports to measure rather than reflecting the impaired sensory, manual, or speaking skills of the employee or applicant except when such skills are the factors that the test purports to measure;

(i) Conducting a medical examination or making inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability, except that:

(i) A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions;

(ii) A test to determine the illegal use of drugs shall not be considered a medical examination; and

(iii) A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement

of the employment duties of the applicant and may condition an offer of employment on the results of the examination if:

(A) All entering employees are subjected to such an examination regardless of disability;

(B) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that (I) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, (II) first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment, (III) government officials investigating compliance with the Nebraska Fair Employment Practice Act shall be provided relevant information on request, and (IV) information shall be made available in accordance with the Nebraska Workers' Compensation Act; and

(C) The results of the examination are used only in a manner not inconsistent with the Nebraska Fair Employment Practice Act; and

(j) Requiring a medical examination or making inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity. A test to determine the illegal use of drugs shall not be considered a medical examination. A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the worksite and may make inquiries into the ability of an employee to perform job-related functions if the information obtained regarding the medical condition or history of the employee is subject to the requirements in subdivisions (1)(i)(iii)(B) and (C) of this section.

(2) When referring to an individual who is pregnant, who has given birth, or who has a related medical condition, discrimination shall include:

(a) Limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the pregnancy, childbirth, or related medical conditions of the applicant or employee;

(b) Participating in a contractual or other arrangement or relationship that has the effect of subjecting an individual who is pregnant, who has given birth, or who has a related medical condition to discrimination in the application or employment process, including a relationship with an employment agency, a labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs;

(c) Utilizing standards, criteria, or methods of administration (i) that have the effect of discrimination on the basis of pregnancy, childbirth, or related medical conditions or (ii) that perpetuate the discrimination against others who are subject to common administrative control;

(d) Not making reasonable accommodations to the known physical limitations of an individual who is pregnant, who has given birth, or who has a related medical condition and who is an applicant or employee unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity;

(e) Denying employment opportunities to a job applicant or employee who is pregnant, who has given birth, or who has a related medical condition if the denial is based upon the need of such covered entity to make reasonable accommodation to the physical limitations due to the pregnancy, childbirth, or related medical conditions of the employee or applicant;

(f) Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual or a class of individuals who are pregnant, who have given birth, or who have a related medical condition unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity;

(g) Conducting a medical examination or making inquiries of a job applicant as to whether the applicant is pregnant, has given birth, or has a related medical condition, except that:

(i) A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions;

(ii) A test to determine the illegal use of drugs shall not be considered a medical examination; and

(iii) A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination if:

(A) All entering employees are subjected to such an examination;

(B) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that (I) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, (II) first-aid and safety personnel may be informed, when appropriate, if the pregnancy, childbirth, or related medical conditions might require emergency treatment, (III) government officials investigating compliance with the Nebraska Fair Employment Practice Act shall be provided relevant information on request, and (IV) information shall be made available in accordance with the Nebraska Workers' Compensation Act; and

(C) The results of the examination are used only in a manner not inconsistent with the Nebraska Fair Employment Practice Act;

(h) Requiring a medical examination or making inquiries of an employee as to whether the employee is pregnant, has given birth, or has a related medical condition unless the examination or inquiry is shown to be job-related and consistent with business necessity. A test to determine the illegal use of drugs shall not be considered a medical examination. A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at the worksite and may make inquiries into the ability of an employee to perform job-related functions if the information obtained regarding the medical condition or history of the employee is subject to the requirements in subdivisions (2)(g)(iii)(B) and (C) of this section;

(i) Requiring an employee to take leave under any leave law or policy of the covered entity if another reasonable accommodation can be provided to the

known limitations related to the pregnancy, childbirth, or related medical conditions of the employee; and

(j) Taking adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

Source: Laws 1993, LB 360, § 6; Laws 2015, LB627, § 3.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

48-1109 Repealed. Laws 2015, LB 627, § 7.

48-1111 Different standards of compensation, conditions, or privileges of employment; lawful employment practices; effect of pregnancy and related medical conditions.

(1) Except as otherwise provided in the Nebraska Fair Employment Practice Act, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if such differences are not the result of an intention to discriminate because of race, color, religion, sex, disability, marital status, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test if such test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, disability, marital status, or national origin.

It shall not be an unlawful employment practice for a covered entity to deny privileges of employment to an individual with a disability when the qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability:

(a) Have been shown to be job-related and consistent with business necessity and such performance cannot be accomplished by reasonable accommodation, as required by the Nebraska Fair Employment Practice Act and the federal Americans with Disabilities Act of 1990; or

(b) Include a requirement that an individual shall not pose a direct threat, involving a significant risk to the health or safety of other individuals in the workplace, that cannot be eliminated by reasonable accommodation.

It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both husband and wife if such policy is equally applied to both sexes.

(2) Except as otherwise provided in the Nebraska Fair Employment Practice Act, women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of employee benefits, as other persons not so affected but similar in their ability or inability to work, and nothing in this section shall be interpreted to provide otherwise.

This section shall not require an employer to provide employee benefits for abortion except when medical complications have arisen from an abortion.

Nothing in this section shall preclude an employer from providing employee benefits for abortion under fringe benefit programs or otherwise affect bargaining agreements in regard to abortion.

Source: Laws 1965, c. 276, § 11, p. 787; Laws 1973, LB 266, § 8; Laws 1977, LB 161, § 7; Laws 1984, LB 14A, § 2; Laws 1993, LB 360, § 11; Laws 2015, LB627, § 4.

48-1117 Commission; powers; duties; enumerated.

The commission shall have the following powers and duties:

(1) To receive, investigate, and pass upon charges of unlawful employment practices anywhere in the state;

(2) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, and take the testimony of any person under oath and, in connection therewith, to require the production for examination of any books and papers relevant to any allegation of unlawful employment practice pending before the commission. The commission may make rules as to the issuance of subpoenas, subject to the approval by a constitutional majority of the elected members of the Legislature;

(3) To cooperate with the federal government and with local agencies to effectuate the purposes of the Nebraska Fair Employment Practice Act, including the sharing of information possessed by the commission on a case that has also been filed with the federal government or local agencies if both the employer and complainant have been notified of the filing;

(4) To attempt to eliminate unfair employment practices by means of conference, mediation, conciliation, arbitration, and persuasion;

(5) To require that every employer, employment agency, and labor organization subject to the act shall (a) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (b) preserve such records for such periods, and (c) make such reports therefrom, as the commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of the act or the regulations or orders thereunder. The commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to the act which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of the act, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and to furnish to the commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may either apply to the commission for an exemption from the application of such regulation or order or bring a civil action in the district court for the district where such records are kept. If the commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the commission or the court, as the case may be, may grant appropriate relief;

(6) To report, not less than once every two years, to the Clerk of the Legislature and the Governor, on the hearings it has conducted and the decisions it has rendered, the other work performed by it to carry out the purposes of the act, and to make recommendations for such further legislation concerning abuses and discrimination because of race, color, religion, sex, disability, marital status, or national origin, as may be desirable. The report shall also include the number of complaints filed under the act alleging a violation of subdivision (2) of section 48-1107.01 and the resolution of such complaints. The report submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of the report required by this subdivision by making a request for it to the chairperson of the commission; and

(7) To adopt and promulgate rules and regulations necessary to carry out the duties prescribed in the act.

Source: Laws 1965, c. 276, § 17, p. 790; Laws 1973, LB 266, § 11; Laws 1977, LB 161, § 11; Laws 1979, LB 322, § 18; Laws 1981, LB 545, § 11; Laws 1984, LB 14A, § 3; Laws 1993, LB 124, § 3; Laws 1993, LB 360, § 15; Laws 2012, LB782, § 63; Laws 2015, LB627, § 5.

48-1119 Unlawful practice; complaint; notice; hearing; witnesses; evidence; findings; civil action authorized; order.

(1) In case of failure to eliminate any unlawful employment practice by informal methods of conference, conciliation, persuasion, mediation, or arbitration, the commission may order a public hearing. If such hearing is ordered, the commission shall cause to be issued and served a written notice, together with a copy of the complaint, requiring the person, employer, labor organization, or employment agency named in the complaint, hereinafter referred to as respondent, to answer such charges at a hearing before the commission at a time and place which shall be specified in such notice. Such hearing shall be within the county where the alleged unlawful employment practice occurred. The complainant shall be a party to the proceeding, and in the discretion of the commission any other person whose testimony has a bearing on the matter may be allowed to intervene therein. Both the complainant and the respondent, in addition to the commission, may introduce witnesses at the hearing. The respondent may file a verified answer to the allegations of the complaint and may appear at such hearing in person and with or without counsel. Testimony or other evidence may be introduced by either party. All evidence shall be under oath and a record thereof shall be made and preserved. Such proceedings shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the State of Nebraska, and shall be of public record.

(2) No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation, or inquiry by, or hearing before the commission when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required of such person may tend to incriminate such person in or subject such person to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which such person shall have been compelled under oath to

testify or produce documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by such person in his or her testimony. Such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. Nothing in this subsection shall be construed as precluding any person from claiming any right or privilege available to such person under the fifth amendment to the Constitution of the United States.

(3) After the conclusion of the hearing, the commission shall, within ten days of the receipt of the transcript or the receipt of the recommendations from the hearing officer, make and file its findings of fact and conclusions of law and make and enter an appropriate order. The hearing officer need not refer to the page and line numbers of the transcript when making his or her recommendation to the commission. Such findings of fact and conclusions of law shall be in sufficient detail to enable a court on appeal to determine the controverted questions presented by the proceedings and whether proper weight was given to the evidence. If the commission determines that the respondent has intentionally engaged in or is intentionally engaging in any unlawful employment practice, it shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice and order such other affirmative action as may be appropriate which may include, but shall not be limited to, reinstatement or hiring of employees, with or without backpay. Backpay liability shall not accrue from a date more than two years prior to the filing of the charge with the commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable.

(4) A complainant who has suffered physical, emotional, or financial harm as a result of a violation of section 48-1104 or 48-1114 may, at any stage of the proceedings prior to dismissal, file an action directly in the district court of the county where such alleged violation occurred. If the complainant files a district court action on the charge, the complainant shall provide written notice of such filing to the commission, and such notification shall immediately terminate all proceedings before the commission. The district court shall file and try such case as any other civil action, and any successful complainant shall be entitled to appropriate relief, including temporary or permanent injunctive relief, general and special damages, reasonable attorney's fees, and costs.

(5) No order of the commission shall require the admission or reinstatement of an individual as a member of a labor organization or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him or her of any backpay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, disability, marital status, or national origin or in violation of section 48-1114. If the commission finds that a respondent has not engaged in any unfair employment practice, it shall within thirty days state its findings of fact and conclusions of law. A copy of any order shall be served upon the person against whom it runs or his or her attorney and notice thereof shall be given to the other parties to the proceedings or their attorneys. Such order shall take effect twenty days after service thereof unless otherwise provided and shall

continue in force either for a period which may be designated therein or until changed or revoked by the commission.

(6) Except as provided in subsection (4) of this section, until a transcript of the record of the proceedings is filed in the district court as provided in section 48-1120, the commission may, at any time upon reasonable notice and in such a manner it shall deem proper, modify or set aside, in whole or in part, any finding or order made by it.

Source: Laws 1965, c. 276, § 19, p. 793; Laws 1973, LB 266, § 12; Laws 1977, LB 161, § 13; Laws 1993, LB 124, § 5; Laws 2003, LB 701, § 2; Laws 2018, LB193, § 84.
Operative date July 19, 2018.

ARTICLE 12

WAGES

(a) MINIMUM WAGES

Section

- 48-1203. Wages; minimum rate.
48-1209.01. Police; firefighters; cities having a population of more than 10,000 inhabitants; minimum salaries.

(b) SEX DISCRIMINATION

- 48-1220. Terms, defined.

(c) WAGE PAYMENT AND COLLECTION

- 48-1228. Act, how cited.
48-1229. Terms, defined.
48-1230. Employer; regular paydays; altered; notice; deduct, withhold, or divert portion of wages; when; wage statement; use of payroll debit card; conditions; unpaid wages; when due.
48-1231. Employee; claim for wages; suit; judgment; costs and attorney's fees; failure to furnish wage statement; penalty.
48-1233. Commissioner of Labor; enforcement powers.
48-1234. Commissioner of Labor; citation; notice of penalty; employer contest; hearing.

(a) MINIMUM WAGES

48-1203 Wages; minimum rate.

(1) Except as otherwise provided in this section and section 48-1203.01, every employer shall pay to each of his or her employees a minimum wage of:

- (a) Seven dollars and twenty-five cents per hour through December 31, 2014;
(b) Eight dollars per hour on and after January 1, 2015, through December 31, 2015; and
(c) Nine dollars per hour on and after January 1, 2016.

(2) For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the minimum wage rate provided in subsection (1) of this section. In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.

(3) Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five percent of the minimum wage rate which would otherwise be applicable.

Source: Laws 1967, c. 285, § 3, p. 775; Laws 1969, c. 408, § 2, p. 1413; Laws 1973, LB 343, § 2; Laws 1987, LB 474, § 1; Laws 1989, LB 412, § 1; Laws 1991, LB 297, § 2; Laws 1997, LB 569, § 1; Laws 2007, LB265, § 22; Initiative Law 2014, No. 425, § 1.

48-1209.01 Police; firefighters; cities having a population of more than 10,000 inhabitants; minimum salaries.

The officers and members of the police and paid fire departments of cities of the metropolitan and primary classes and of cities of the first class having a population of more than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall each receive a salary of not less than three hundred fifty dollars per month. The city council may, by ordinance, at any time, change, fix or revise the salaries of the officers or members of the police and fire departments of such cities, but in no instance shall the minimum salary of any officer or member be less than three hundred fifty dollars per month.

Source: Laws 1965, c. 78, § 1, p. 313; Laws 1979, LB 80, § 63; R.S.1943, (1983), § 19-1824; Laws 2017, LB113, § 46.

(b) SEX DISCRIMINATION

48-1220 Terms, defined.

As used in sections 48-1219 to 48-1227.01, unless the context otherwise requires:

(1) Employee shall mean any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies;

(2) Employer shall mean any person engaged in an industry who has two or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, any agent of such person, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act, and includes the State of Nebraska, its governmental agencies, and political subdivisions, regardless of the number of employees, but such term shall not include the United States, a corporation wholly owned by the government of the United States, or an Indian tribe;

(3) Wage rate shall mean all compensation for employment including payment in kind and amounts paid by employers for employee benefits as defined by the commission in regulations issued under sections 48-1219 to 48-1227;

(4) Employ shall include to suffer or permit to work;

(5) Commission shall mean the Equal Opportunity Commission; and

(6) Person shall include one or more individuals, partnerships, limited liability companies, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Source: Laws 1969, c. 389, § 2, p. 1366; Laws 1983, LB 424, § 5; Laws 1983, LB 626, § 75; Laws 1993, LB 121, § 299; Laws 2005, LB 10, § 1; Laws 2016, LB83, § 1.

Cross References

Nebraska Investment Finance Authority Act, see section 58-201.

(c) WAGE PAYMENT AND COLLECTION

48-1228 Act, how cited.

Sections 48-1228 to 48-1234 shall be known and may be cited as the Nebraska Wage Payment and Collection Act.

Source: Laws 1977, LB 220A, § 1; Laws 2007, LB255, § 1; Laws 2014, LB560, § 1.

48-1229 Terms, defined.

For purposes of the Nebraska Wage Payment and Collection Act, unless the context otherwise requires:

(1) Employee means any individual permitted to work by an employer pursuant to an employment relationship or who has contracted to sell the goods or services of an employer and to be compensated by commission. Services performed by an individual for an employer shall be deemed to be employment, unless it is shown that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. This subdivision is not intended to be a codification of the common law and shall be considered complete as written;

(2) Employer means the state or any individual, partnership, limited liability company, association, joint-stock company, trust, corporation, political subdivision, or personal representative of the estate of a deceased individual, or the receiver, trustee, or successor thereof, within or without the state, employing any person within the state as an employee;

(3) Federally insured financial institution means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States Government;

(4) Fringe benefits includes sick and vacation leave plans, disability income protection plans, retirement, pension, or profit-sharing plans, health and accident benefit plans, and any other employee benefit plans or benefit programs regardless of whether the employee participates in such plans or programs;

(5) Payroll debit card means a stored-value card issued by or on behalf of a federally insured financial institution that provides an employee with immediate access for withdrawal or transfer of his or her wages through a network of automatic teller machines. Payroll debit card includes payroll debit cards, payroll cards, and paycards; and

(6) Wages means compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. Paid leave, other than earned but unused vacation leave, provided as a fringe benefit by the employer shall not be

included in the wages due and payable at the time of separation, unless the employer and the employee or the employer and the collective-bargaining representative have specifically agreed otherwise. Unless the employer and employee have specifically agreed otherwise through a contract effective at the commencement of employment or at least ninety days prior to separation, whichever is later, wages includes commissions on all orders delivered and all orders on file with the employer at the time of separation of employment less any orders returned or canceled at the time suit is filed.

Source: Laws 1977, LB 220A, § 2; Laws 1988, LB 1130, § 1; Laws 1989, LB 238, § 1; Laws 1991, LB 311, § 1; Laws 1993, LB 121, § 300; Laws 1999, LB 753, § 1; Laws 2007, LB255, § 2; Laws 2014, LB765, § 1.

48-1230 Employer; regular paydays; altered; notice; deduct, withhold, or divert portion of wages; when; wage statement; use of payroll debit card; conditions; unpaid wages; when due.

(1) Except as otherwise provided in this section, each employer shall pay all wages due its employees on regular days designated by the employer or agreed upon by the employer and employee. Thirty days' written notice shall be given to an employee before regular paydays are altered by an employer. An employer may deduct, withhold, or divert a portion of an employee's wages only when the employer is required to or may do so by state or federal law or by order of a court of competent jurisdiction or the employer has a written agreement with the employee to deduct, withhold, or divert.

(2) On each regular payday, the employer shall deliver or make available to each employee, by mail or electronically, or shall provide at the employee's normal place of employment during employment hours for all shifts a wage statement showing, at a minimum, the identity of the employer, the hours for which the employee was paid, the wages earned by the employee, and deductions made for the employee. However, the employer need not provide information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act of 1938, under 29 C.F.R. part 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, or bonus or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable.

(3) When an employer elects to pay wages with a payroll debit card, the employer shall comply with the compulsory-use requirements prescribed in 15 U.S.C. 1693k. Additionally, the employer shall allow an employee at least one means of fund access withdrawal per pay period, but not more frequently than once per week, at no cost to the employee for an amount up to and including the total amount of the employee's net wages, as stated on the employee's earnings statement. An employer shall not require an employee to pay any fees or costs incurred by the employer in connection with paying wages with a payroll debit card.

(4) Except as otherwise provided in section 48-1230.01:

(a) Whenever an employer, other than a political subdivision, separates an employee from the payroll, the unpaid wages shall become due on the next

regular payday or within two weeks of the date of termination, whichever is sooner; and

(b) Whenever a political subdivision separates an employee from the payroll, the unpaid wages shall become due within two weeks of the next regularly scheduled meeting of the governing body of the political subdivision if such employee is separated from the payroll at least one week prior to such meeting, or if an employee of a political subdivision is separated from the payroll less than one week prior to the next regularly scheduled meeting of the governing body of the political subdivision, the unpaid wages shall be due within two weeks of the following regularly scheduled meeting of the governing body of the political subdivision.

Source: Laws 1977, LB 220A, § 3; Laws 1988, LB 1130, § 2; Laws 2007, LB255, § 3; Laws 2010, LB884, § 2; Laws 2014, LB560, § 4; Laws 2014, LB765, § 2.

48-1231 Employee; claim for wages; suit; judgment; costs and attorney's fees; failure to furnish wage statement; penalty.

(1) An employee having a claim for wages which are not paid within thirty days of the regular payday designated or agreed upon may institute suit for such unpaid wages in the proper court. If an employee establishes a claim and secures judgment on the claim, such employee shall be entitled to recover (a) the full amount of the judgment and all costs of such suit and (b) if such employee has employed an attorney in the case, an amount for attorney's fees assessed by the court, which fees shall not be less than twenty-five percent of the unpaid wages. If the cause is taken to an appellate court and the plaintiff recovers a judgment, the appellate court shall tax as costs in the action, to be paid to the plaintiff, an additional amount for attorney's fees in such appellate court, which fees shall not be less than twenty-five percent of the unpaid wages. If the employee fails to recover a judgment in excess of the amount that may have been tendered within thirty days of the regular payday by an employer, such employee shall not recover the attorney's fees provided by this section. If the court finds that no reasonable dispute existed as to the fact that wages were owed or as to the amount of such wages, the court may order the employee to pay the employer's attorney's fees and costs of the action as assessed by the court.

(2) An employer who fails to furnish a wage statement under subsection (2) of section 48-1230 shall be guilty of an infraction as defined in section 29-431 and shall be subject to a fine pursuant to section 29-436.

Source: Laws 1977, LB 220A, § 4; Laws 1991, LB 311, § 2; Laws 2010, LB884, § 3; Laws 2014, LB560, § 5.

48-1233 Commissioner of Labor; enforcement powers.

The Commissioner of Labor shall have the authority to subpoena records and witnesses related to the enforcement of the Nebraska Wage Payment and Collection Act. The commissioner or his or her agent may inspect all related records and gather testimony on any matter relative to the enforcement of the act when the information sought is relevant to a lawful investigative purpose and is reasonable in scope.

Source: Laws 2014, LB560, § 2.

48-1234 Commissioner of Labor; citation; notice of penalty; employer contest; hearing.

(1) The Commissioner of Labor shall issue a citation to an employer when an investigation reveals that the employer may have violated the Nebraska Wage Payment and Collection Act, other than a violation of subsection (2) of section 48-1230.

(2) When a citation is issued, the commissioner shall notify the employer of the proposed administrative penalty, if any, by certified mail or any other manner of delivery by which the United States Postal Service can verify delivery. The administrative penalty shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars in the case of a second or subsequent violation.

(3) The employer has fifteen working days after the date of the citation or penalty to contest such citation or penalty. Notice of contest shall be sent to the commissioner who shall provide a hearing in accordance with the Administrative Procedure Act.

Source: Laws 2014, LB560, § 3.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 14

DEFERRED COMPENSATION

Section

48-1401. Political subdivisions; exception; deferred compensation plan; provisions; investment.

48-1401 Political subdivisions; exception; deferred compensation plan; provisions; investment.

(1) Any county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, may enter into an agreement to defer a portion of any individual's compensation derived from such county, municipality, or other political subdivision, instrumentality, or agency to a future period in time pursuant to section 457 of the Internal Revenue Code. Such deferred compensation plan shall be voluntary and shall be available to all regular employees and elected officials.

(2) The compensation to be deferred may never exceed the total compensation to be received by the individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

(3) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries by the county, municipality, or other political subdivision, instrumentality, or agency until such time as payments are made under the terms of the deferred compensation plan.

(4) The county, municipality, or other political subdivision, instrumentality, or agency shall designate its treasurer or an equivalent official, including the

State Treasurer, to be the custodian of the funds and securities of the deferred compensation plan.

(5) The county, municipality, or other political subdivision, instrumentality, or agency may invest the compensation to be deferred under an agreement in or with: (a) Annuities; (b) mutual funds; (c) banks; (d) savings and loan associations; (e) trust companies qualified to act as fiduciaries in this state; (f) an organization established for the purpose of administering public employee deferred compensation retirement plans and authorized to do business in the State of Nebraska; or (g) investment advisers as defined in the federal Investment Advisers Act of 1940.

(6) The deferred compensation program shall exist and serve in addition to, and shall not be a part of, any existing retirement or pension system provided for state, county, municipal, or other political subdivision, instrumentality, or agency employees, or any other benefit program.

(7) Any compensation deferred under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(8) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such individual.

(9) The state, county, municipality, or other political subdivision, instrumentality, or agency shall not be responsible for any investment results entered into by the individual in the deferred compensation agreement.

(10) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable.

(11) Nothing contained in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(12) If a county has not established a deferred compensation plan pursuant to this section, each individual may require that the county enter into an agreement with the individual to defer a portion of such individual's compensation and place it under the management and supervision of the state deferred compensation plan created pursuant to sections 84-1504 to 84-1506. If such an agreement is made, the county shall designate the State Treasurer as custodian of such deferred compensation funds and such deferred compensation funds shall become a part of the trust administered by the Public Employees Retirement Board pursuant to sections 84-1504 to 84-1506.

(13) For purposes of this section, individual means (a) any person designated by the county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, as a permanent part-time or full-time employee of the county, municipality, or other political subdivision, instrumentality, or agency and (b) a person under contract providing services to the county, municipality, or other political subdivision, instrumentality, or

agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered into a contract with such county, municipality, political subdivision, instrumentality, or agency to have compensation deferred prior to August 28, 1999.

Source: Laws 1977, LB 328, § 1; Laws 1997, LB 623, § 11; Laws 1999, LB 703, § 8; Laws 2012, LB916, § 18; Laws 2015, LB40, § 8.

ARTICLE 16

NEBRASKA WORKFORCE INVESTMENT ACT

(b) NEBRASKA WORKFORCE INVESTMENT ACT

Section

- 48-1616. Repealed. Laws 2015, LB 334, § 3.
- 48-1617. Repealed. Laws 2015, LB 334, § 3.
- 48-1618. Repealed. Laws 2015, LB 334, § 3.
- 48-1619. Repealed. Laws 2015, LB 334, § 3.
- 48-1620. Repealed. Laws 2015, LB 334, § 3.
- 48-1621. Repealed. Laws 2015, LB 334, § 3.
- 48-1622. Repealed. Laws 2015, LB 334, § 3.
- 48-1623. Repealed. Laws 2015, LB 334, § 3.
- 48-1624. Repealed. Laws 2015, LB 334, § 3.
- 48-1625. Repealed. Laws 2015, LB 334, § 3.
- 48-1626. Repealed. Laws 2015, LB 334, § 3.
- 48-1627. Repealed. Laws 2015, LB 334, § 3.

(b) NEBRASKA WORKFORCE INVESTMENT ACT

- 48-1616 Repealed. Laws 2015, LB 334, § 3.**
- 48-1617 Repealed. Laws 2015, LB 334, § 3.**
- 48-1618 Repealed. Laws 2015, LB 334, § 3.**
- 48-1619 Repealed. Laws 2015, LB 334, § 3.**
- 48-1620 Repealed. Laws 2015, LB 334, § 3.**
- 48-1621 Repealed. Laws 2015, LB 334, § 3.**
- 48-1622 Repealed. Laws 2015, LB 334, § 3.**
- 48-1623 Repealed. Laws 2015, LB 334, § 3.**
- 48-1624 Repealed. Laws 2015, LB 334, § 3.**
- 48-1625 Repealed. Laws 2015, LB 334, § 3.**
- 48-1626 Repealed. Laws 2015, LB 334, § 3.**
- 48-1627 Repealed. Laws 2015, LB 334, § 3.**

ARTICLE 17

FARM LABOR CONTRACTORS

Section

- 48-1706. Application fee.
- 48-1707. Repealed. Laws 2016, LB270, § 7.

48-1706 Application fee.

Each application shall be accompanied by a fee. The Commissioner of Labor shall establish the amount of the fee, which shall not exceed seven hundred fifty dollars, by rule and regulation. The fee shall be established with due regard for the costs of administering the Farm Labor Contractors Act. All fees so collected shall be deposited in the Contractor and Professional Employer Organization Registration Cash Fund.

Source: Laws 1987, LB 344, § 6; Laws 2002, LB 931, § 3; Laws 2016, LB270, § 2.

48-1707 Repealed. Laws 2016, LB270, § 7.**ARTICLE 21****CONTRACTOR REGISTRATION**

Section

48-2107. Fees; exemption.

48-2115. Repealed. Laws 2016, LB270, § 7.

48-2107 Fees; exemption.

(1) Each application or renewal under section 48-2105 shall be signed by the applicant and accompanied by a fee of forty dollars. The commissioner may adopt and promulgate rules and regulations to establish the criteria for acceptability of filing documents and making payments electronically. The criteria may include requirements for electronic signatures. The commissioner may refuse to accept any electronic filings or payments that do not meet the criteria established. The fee shall not be required when an amendment to an application is submitted. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the Contractor and Professional Employer Organization Registration Cash Fund.

(2) A contractor shall not be required to pay the fee under subsection (1) of this section if (a) the contractor is self-employed and does not pay more than three thousand dollars annually to employ other persons in the business and the application contains a statement made under oath or equivalent affirmation setting forth such information or (b) the contractor only engages in the construction of water wells or installation of septic systems. At any time that a contractor no longer qualifies for exemption from the fee, the fee shall be paid to the department. Any false statement made under subdivision (2)(a) of this section shall be a violation of section 28-915.01.

(3) The commissioner shall charge an additional fee of twenty-five dollars for the registration of each nonresident contractor and a fee of twenty-five dollars for the registration of each contract to which a nonresident contractor is a party if the total contract price or compensation to be received is more than ten thousand dollars. The commissioner shall remit the fees collected under this subsection to the State Treasurer for credit to the General Fund.

Source: Laws 1994, LB 248, § 7; Laws 2008, LB204, § 4; Laws 2009, LB162, § 5; Laws 2016, LB270, § 3.

48-2115 Repealed. Laws 2016, LB270, § 7.**ARTICLE 22
NON-ENGLISH-SPEAKING EMPLOYEES**

Section

48-2213. Meatpacking industry worker rights coordinator; established; powers and duties.

48-2213 Meatpacking industry worker rights coordinator; established; powers and duties.

(1) The position of meatpacking industry worker rights coordinator is established within the department. The coordinator shall be appointed by the Governor.

(2) The duties of the coordinator shall be to inspect and review the practices and procedures of meatpacking operations in the State of Nebraska as they relate to the provisions of the Governor's Nebraska Meatpacking Industry Workers Bill of Rights, which rights are outlined as follows:

- (a) The right to organize;
- (b) The right to a safe workplace;
- (c) The right to adequate facilities and the opportunity to use them;
- (d) The right to complete information;
- (e) The right to understand the information provided;
- (f) The right to existing state and federal benefits and rights;
- (g) The right to be free from discrimination;
- (h) The right to continuing training, including training of supervisors;
- (i) The right to compensation for work performed; and
- (j) The right to seek state help.

(3) The coordinator and his or her designated representatives shall have access to all meatpacking operations in the State of Nebraska at any time meatpacking products are being processed and industry workers are on the job.

(4) Necessary office space, furniture, equipment, and supplies as well as necessary assistance for the coordinator shall be provided by the commissioner.

(5) Preference shall be given to applicants for the coordinator position who are fluent in the Spanish language.

(6) The coordinator shall, on or before December 1 of each year, submit a report to the members of the Legislature and the Governor regarding any recommended actions the coordinator deems necessary or appropriate to provide for the fair treatment of workers in the meatpacking industry. The report submitted to the members of the Legislature shall be submitted electronically.

Source: Laws 2000, LB 1363, § 4; R.S.Supp.,2002, § 81-404; Laws 2003, LB 418, § 7; Laws 2012, LB782, § 65.

ARTICLE 23

NEW HIRE REPORTING ACT

Section

48-2302. Terms, defined.

48-2307. Department; report.

48-2302 Terms, defined.

For purposes of the New Hire Reporting Act:

(1) Date of hire means the day an employee begins employment with an employer;

(2) Department means the Department of Health and Human Services;

(3) Employee means an independent contractor or a person who is compensated by or receives income from an employer or other payor, regardless of how such income is denominated;

(4) Employer means any individual, partnership, limited liability company, firm, corporation, association, political subdivision, or department or agency of the state or federal government, labor organization, or any other entity with an employee;

(5) Income means compensation paid, payable, due, or to be due for labor or personal services, whether denominated as wages, salary, earnings, income, commission, bonus, or otherwise;

(6) Payor includes a person, partnership, limited partnership, limited liability partnership, limited liability company, corporation, or other entity doing business or authorized to do business in the State of Nebraska, including a financial institution, or a department or an agency of state, county, or city government; and

(7) Rehire means the first day an employee begins employment with the employer following a termination of employment with such employer. Termination of employment does not include temporary separations from employment, such as an unpaid medical leave, an unpaid leave of absence, a temporary layoff of less than sixty days in length, or an absence for disability or maternity.

Source: Laws 1997, LB 752, § 41; Laws 2009, LB288, § 16; Laws 2012, LB1058, § 12.

48-2307 Department; report.

The department shall issue electronically a report to the Legislature on or before January 31 of each year which discloses the number of employees reported to the department and the number of matches during the preceding calendar year for purposes of the New Hire Reporting Act.

Source: Laws 1997, LB 752, § 46; Laws 2007, LB296, § 221; Laws 2012, LB782, § 66.

ARTICLE 27

PROFESSIONAL EMPLOYER ORGANIZATION REGISTRATION ACT

Section

48-2710. Fees.

48-2710 Fees.

(1) The department shall adopt a schedule of fees for initial registration, annual registration renewal, and limited registration, not to exceed two thousand five hundred dollars for initial registration, one thousand five hundred dollars for annual registration renewal, and one thousand dollars for limited registration. Such fees shall not exceed those reasonably necessary for the administration of the Professional Employer Organization Registration Act.

(2) Fees imposed pursuant to this section shall be remitted to the State Treasurer for credit to the Contractor and Professional Employer Organization Registration Cash Fund.

Source: Laws 2010, LB579, § 10; Laws 2016, LB270, § 4.

ARTICLE 28**NEBRASKA INNOVATION AND HIGH WAGE EMPLOYMENT ACT**

Section

- 48-2801. Repealed. Laws 2015, LB 5, § 1.
- 48-2802. Repealed. Laws 2015, LB 5, § 1.
- 48-2803. Repealed. Laws 2015, LB 5, § 1.
- 48-2804. Repealed. Laws 2015, LB 5, § 1.
- 48-2805. Repealed. Laws 2015, LB 5, § 1.

48-2801 Repealed. Laws 2015, LB 5, § 1.

48-2802 Repealed. Laws 2015, LB 5, § 1.

48-2803 Repealed. Laws 2015, LB 5, § 1.

48-2804 Repealed. Laws 2015, LB 5, § 1.

48-2805 Repealed. Laws 2015, LB 5, § 1.

ARTICLE 29**EMPLOYEE CLASSIFICATION ACT**

Section

- 48-2903. Presumption; act; how construed.
- 48-2907. Fines; unpaid fines; effect.
- 48-2909. Report; contents.
- 48-2911. Contracts; affidavit required; rescission.

48-2903 Presumption; act; how construed.

(1) An individual performing construction labor services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless:

(a) The individual meets the criteria found in subdivision (5) of section 48-604;

(b) The individual has been registered as a contractor pursuant to the Contractor Registration Act prior to commencing construction work for the contractor; and

(c) The individual has been assigned a combined tax rate pursuant to sections 48-649 to 48-649.04 or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(2) An individual performing delivery services for a contractor is presumed an employee and not an independent contractor for purposes of the Employee Classification Act, unless the individual meets the criteria found in subdivision (5) of section 48-604 or is exempted from unemployment insurance coverage pursuant to subdivision (6) of section 48-604.

(3) The Employee Classification Act shall not be construed to affect or apply to a common-law or statutory action providing for recovery in tort and shall not be construed to affect or change the common-law interpretation of independent contractor status as it relates to tort liability or a workers' compensation claim. The act shall also not be construed to affect or alter the use of the term independent contractor as interpreted by the Department of Revenue and shall not be construed to affect any action brought pursuant to the Nebraska Revenue Act of 1967.

Source: Laws 2010, LB563, § 3; Laws 2017, LB172, § 84.

Cross References

Contractor Registration Act, see section 48-2101.
Nebraska Revenue Act of 1967, see section 77-2701.

48-2907 Fines; unpaid fines; effect.

(1) In addition to any other fines or penalties provided by law, if the commissioner finds, after notice and hearing, that a contractor has violated the Employee Classification Act, the contractor shall be assessed, by the commissioner, a five-hundred-dollar fine per each misclassified individual for the first offense and a five-thousand-dollar fine per each misclassified individual for each second and subsequent offense.

(2) Any contractor who has unpaid fines for a violation of the Employee Classification Act shall be barred from contracting with the state or any political subdivision until such fines are paid.

Source: Laws 2010, LB563, § 7; Laws 2018, LB953, § 2.
Effective date July 19, 2018.

48-2909 Report; contents.

The department shall provide electronically an annual report to the Legislature regarding compliance with and enforcement of the Employee Classification Act. The report shall include, but not be limited to, the number of reports received from both its hotline and web site, the number of investigated reports, the findings of the reports, the amount of combined tax, interest, and fines collected, the number of referrals to the Department of Revenue, Nebraska Workers' Compensation Court, and appropriate prosecuting authority, and the outcome of such referrals.

Source: Laws 2010, LB563, § 9; Laws 2012, LB782, § 67.

48-2911 Contracts; affidavit required; rescission.

Any contract between the state or a political subdivision and a contractor shall require that each contractor who performs construction or delivery service pursuant to the contract submit to the state or political subdivision an affidavit attesting that (1) each individual performing services for such contractor is properly classified under the Employee Classification Act, (2) such contractor has completed a federal I-9 immigration form and has such form on

file for each employee performing services, (3) such contractor has complied with section 4-114, (4) such contractor has no reasonable basis to believe that any individual performing services for such contractor is an undocumented worker, and (5) as of the time of the contract, such contractor is not barred from contracting with the state or any political subdivision pursuant to section 48-2907 or 48-2912. Such contract shall also require that the contractor follow the provisions of the Employee Classification Act. A violation of the act by a contractor is grounds for rescission of the contract by the state or political subdivision.

Source: Laws 2010, LB563, § 11; Laws 2018, LB953, § 3.
Effective date July 19, 2018.

ARTICLE 31

SUBSIDIZED EMPLOYMENT PILOT PROGRAM

Section

- 48-3101. Legislative findings.
- 48-3102. Terms, defined.
- 48-3103. Subsidized Employment Pilot Program; created; Department of Health and Human Services; duties; Department of Labor; powers; nonprofit organization; duties; report; contents.
- 48-3104. Subsidies.
- 48-3105. Nonprofit organization; gather and report performance measures.
- 48-3106. Termination.
- 48-3107. Rules and regulations.
- 48-3108. Appropriations; legislative intent; use.

48-3101 Legislative findings.

The Legislature finds that:

- (1) Work experience is necessary to obtain employment in a competitive job market;
- (2) Businesses find creating capacity to add employees during a time of economic recovery challenging;
- (3) Subsidized employment can benefit employers and workers in need of experience;
- (4) Increasing opportunities for public assistance recipients to engage in meaningful workplace experience can significantly contribute to their long-term employability;
- (5) Providing subsidized employment can also help businesses to grow; and
- (6) States nationwide provide subsidized employment to public assistance recipients in order to aid employers in developing work placements for public assistance recipients.

Source: Laws 2013, LB368, § 1.

48-3102 Terms, defined.

For purposes of sections 48-3101 to 48-3107:

- (1) Aid to dependent children program means the program described in section 43-512; and
- (2) Participant means an individual who qualifies for the aid to dependent children program services with a family income equal to or less than two

hundred percent of the Office of Management and Budget income poverty guideline.

Source: Laws 2013, LB368, § 2.

48-3103 Subsidized Employment Pilot Program; created; Department of Health and Human Services; duties; Department of Labor; powers; nonprofit organization; duties; report; contents.

(1) The Subsidized Employment Pilot Program is created within the Department of Health and Human Services to provide opportunities for employers and participants in the aid to dependent children program to achieve subsidized employment.

(2) The department shall establish a partnership between an entity which contracts with the department pursuant to section 68-1722 to provide case management services in the aid to dependent children program and a nonprofit organization.

(3) The Department of Labor may establish a partnership with the nonprofit organization described in subsection (2) of this section to assist in the referral of participants and employers for the pilot program.

(4) The nonprofit organization described in subsection (2) of this section shall:

(a) Establish an application process for employers to participate in the pilot program. Such application process shall include, but not be limited to, a requirement that employer applicants submit a plan including, but not limited to, the following criteria:

(i) Initial client assessment, job development, job placement, and employment retention services;

(ii) A strategy to place participants in in-demand jobs; and

(iii) Other program guidelines or criteria for the pilot program as needed;

(b) Recruit participants for the pilot program, with assistance from the Department of Health and Human Services, the Department of Labor, and an entity which contracts with the department pursuant to section 68-1722 to provide case management services in the aid to dependent children program;

(c) Recruit employers for the pilot program, with assistance from the Department of Labor;

(d) Determine participant eligibility for the pilot program and assist with employer and employee matching;

(e) Ensure that the pilot program operates in both rural and urban areas. To ensure that the pilot program operates in both rural and urban areas, such nonprofit organization may enter into subcontracts with other nonprofit entities;

(f) Gather the data and performance measures as described in section 48-3105; and

(g) Submit an electronic report on or before September 15 of each year to the Health and Human Services Committee of the Legislature containing the data and performance measures described in section 48-3105.

Source: Laws 2013, LB368, § 3.

48-3104 Subsidies.

Subsidies under the Subsidized Employment Pilot Program created pursuant to section 48-3103 shall be capped at the prevailing wage and shall be provided for no more than forty hours per week for not more than six months, on the following scale:

- (1) One hundred percent in months one and two;
- (2) Seventy-five percent in month three;
- (3) Fifty percent in months four and five; and
- (4) Twenty-five percent in month six.

Source: Laws 2013, LB368, § 4.

48-3105 Nonprofit organization; gather and report performance measures.

The nonprofit organization described in subsection (2) of section 48-3103 shall ensure the gathering and reporting of the following performance measures:

- (1) Number of employees participating in the Subsidized Employment Pilot Program;
- (2) Length of time each employee has participated in the program;
- (3) Wages paid to employees in the program;
- (4) Employment status of each employee at completion of his or her participation in the program, six months after such completion, and twelve months after such completion;
- (5) Wages of each employee at completion of his or her participation in the program, six months after such completion, and twelve months after such completion;
- (6) Number of employers participating in the program; and
- (7) Length of time each employer has participated in the program.

Source: Laws 2013, LB368, § 5.

48-3106 Termination.

The Subsidized Employment Pilot Program created under section 48-3103 terminates on July 1, 2018.

Source: Laws 2013, LB368, § 6.

48-3107 Rules and regulations.

The Department of Health and Human Services may adopt and promulgate rules and regulations to carry out sections 48-3101 to 48-3106.

Source: Laws 2013, LB368, § 7.

48-3108 Appropriations; legislative intent; use.

It is the intent of the Legislature to appropriate one million dollars each fiscal year for FY2014-15 to FY2017-18 from funds available to the federal Temporary Assistance for Needy Families program, 42 U.S.C. 601 et seq., as such sections existed on January 1, 2013, to carry out sections 48-3101 to 48-3106. No more than ten percent of the funds appropriated to carry out sections 48-3101 to 48-3106 shall be used for administrative costs. Administrative cost shall not be

defined to include cost for service delivery. Any of such funds which are unexpended on June 30, 2018, shall lapse to the federal Temporary Assistance for Needy Families program on such date.

Source: Laws 2013, LB368, § 8.

ARTICLE 32
FACILITATING BUSINESS RAPID RESPONSE
TO STATE DECLARED DISASTERS ACT

Section

- 48-3201. Act, how cited.
- 48-3202. Terms, defined.
- 48-3203. Out-of-state business; applicability of state or local employment, licensing, or registration requirements; out-of-state employee; how treated.
- 48-3204. Out-of-state business; notification to Department of Revenue; information; contents; registered business; duties.
- 48-3205. Work pursuant to request for bid or request for proposals; how treated.

48-3201 Act, how cited.

Sections 48-3201 to 48-3205 shall be known and may be cited as the Facilitating Business Rapid Response to State Declared Disasters Act.

Source: Laws 2016, LB913, § 1.

48-3202 Terms, defined.

For purposes of the Facilitating Business Rapid Response to State Declared Disasters Act:

(1) Declared state disaster or emergency means a disaster or emergency event (a) for which a Governor's state of emergency proclamation has been issued or (b) that the President of the United States has declared to be a major disaster or emergency;

(2) Disaster period means the period of time that begins ten days before the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and extending for a period of sixty calendar days following the end of the period specified in the proclamation or declaration or sixty calendar days after the proclamation or declaration if no end is provided. The Governor may extend the disaster period as warranted;

(3) Infrastructure means real and personal property, including buildings, offices, power lines, cable lines, poles, communication lines, pipes, structures, equipment, and related support facilities, owned or used by a public utility, communications network, broadband or Internet service provider, cable or video service provider, natural gas distribution system, or water pipeline that provides service to more than one customer or person;

(4)(a) Out-of-state business means a business entity:

- (i) That does not have a presence in the state;
- (ii) That does not conduct business in the state;
- (iii) That has no registrations, tax filings, or nexus in the state before the declared state disaster or emergency; and
- (iv) Whose assistance in repairing, renovating, installing, or building infrastructure or rendering services or other business activities related to a declared

state disaster or emergency is requested by the state, a county, city, village, or other political subdivision of the state, or a registered business that owns or uses infrastructure.

(b) Out-of-state business includes a business entity that is affiliated with a registered business solely through common ownership as long as that business entity does not have any registrations, tax filings, or nexus in the state before the declared state disaster or emergency. For purposes of this section, a prior registration as an out-of-state business for a declared state disaster or emergency shall not be considered a registration in this state;

(5) Out-of-state employee means a nonresident individual who does not work in the state except for disaster or emergency related work during a disaster period; and

(6) Registered business means a business entity that is registered or licensed to do business in the state before the declared state disaster or emergency.

Source: Laws 2016, LB913, § 2.

48-3203 Out-of-state business; applicability of state or local employment, licensing, or registration requirements; out-of-state employee; how treated.

(1) An out-of-state business that conducts operations within the state for purposes of assisting in repairing, renovating, installing, or building infrastructure or rendering services or other business activities related to a declared state disaster or emergency during the disaster period shall not be considered to have established a level of presence that would subject the out-of-state business or any of its out-of-state employees to any of the following state or local employment, licensing, or registration requirements:

(a) Registration with the Secretary of State;

(b) Withholding or income tax registration, filing, or remitting requirements; and

(c) Sales, use, or ad valorem tax on equipment brought into the state temporarily for use or consumption during the disaster period if such equipment does not remain in the state after the disaster period.

(2) An out-of-state employee shall not be considered to have established residency or a presence in the state that would require that person or that person's employer to file and pay income taxes, to be subjected to tax withholdings, or to file and pay any other state or local income or withholding tax or fee for work repairing, renovating, installing, or building infrastructure or rendering services or other business activities during the disaster period.

(3) After the conclusion of a disaster period, an out-of-state business or out-of-state employee that remains in the state is fully subject to the state or local employment, licensing, or registration requirements listed in this section or that were otherwise suspended under the Facilitating Business Rapid Response to State Declared Disasters Act during the disaster period.

Source: Laws 2016, LB913, § 3.

48-3204 Out-of-state business; notification to Department of Revenue; information; contents; registered business; duties.

(1) An out-of-state business shall provide notification to the Department of Revenue within ten days after entry to the state during a disaster period that

the out-of-state business is in the state for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the department information related to the out-of-state business including, but not limited to, the following:

- (a) Name;
- (b) State of domicile;
- (c) Principal business address;
- (d) Federal employer identification number;
- (e) The date when the out-of-state business entered the state; and
- (f) Contact information while the out-of-state business is in this state.

(2) A registered business shall provide the notification required in subsection (1) of this section for an affiliate of the registered business that enters the state as an out-of-state business. The notification under this subsection shall also include contact information for the registered business in the state.

Source: Laws 2016, LB913, § 4.

48-3205 Work pursuant to request for bid or request for proposals; how treated.

The Facilitating Business Rapid Response to State Declared Disasters Act shall not grant exemptions authorized by the act to any out-of-state business performing work pursuant to a request for bid or request for proposals by a state agency or political subdivision.

Source: Laws 2016, LB913, § 5.

ARTICLE 33

NEBRASKA WORKFORCE INNOVATION AND OPPORTUNITY ACT

Section

- 48-3301. Act, how cited.
- 48-3302. Legislative findings and declarations.
- 48-3303. Career pathway, defined.
- 48-3304. Commissioner of Labor; performance report; duties.
- 48-3305. Department of Labor; powers; rules and regulations.

48-3301 Act, how cited.

Sections 48-3301 to 48-3305 shall be known and may be cited as the Nebraska Workforce Innovation and Opportunity Act.

Source: Laws 2016, LB1110, § 1.

48-3302 Legislative findings and declarations.

The Legislature finds and declares:

(1) In order for Nebraska to remain prosperous and competitive, it needs to have a well-educated and highly skilled workforce;

(2) The following principles shall guide the state's workforce investment system:

(a) Workforce investment programs and services shall be responsive to the needs of employers, workers, and students by accomplishing the following:

(i) Providing Nebraska students and workers with the skills necessary to successfully compete in the global economy;

(ii) Producing greater numbers of individuals who obtain industry-recognized certificates and career-oriented degrees in competitive and emerging industry sectors and filling critical labor market skills gaps;

(iii) Adapting to rapidly changing local and regional labor markets as specific workforce skill requirements change over time;

(iv) Preparing workers for jobs that pay well and foster economic security and upward mobility; and

(v) Aligning employment programs, resources, and planning efforts regionally around industry sectors that drive regional employment to connect services and training directly to jobs;

(b) State and local workforce development boards are encouraged to collaborate with other public and private institutions, including businesses, unions, nonprofit organizations, schools from kindergarten through grade twelve, career technical education programs, adult career technical education and basic skills programs, apprenticeships, community college career technical education and basic skills programs, entrepreneurship training programs, where appropriate, and county-based social and employment services, to better align resources across workforce, training, education, and social service delivery systems and build a well-articulated workforce investment system by accomplishing the following:

(i) Adopting local and regional training and education strategies that build on the strengths and fill the gaps in the education and workforce development pipeline in order to address the needs of job seekers, workers, and employers within regional labor markets by supporting sector strategies; and

(ii) Leveraging resources across education and workforce training delivery systems to build career pathways and fill critical skills gaps;

(c) Workforce investment programs and services shall be data-driven and evidence-based when setting priorities, investing resources, and adopting practices;

(d) Workforce investment programs and services shall develop strong partnerships with the private sector, ensuring industry involvement in needs assessment, planning, and program evaluation, and:

(i) Shall encourage industry involvement by developing strong partnerships with an industry's employers and the unions that represent the industry's workers; and

(ii) May consider the needs of employers and businesses of all sizes, including large, medium, small, and microenterprises, when setting priorities, investing resources, and adopting practices;

(e) Workforce investment programs and services shall be outcome-oriented and accountable, measuring results for program participants, including, but not limited to, outcomes related to program completion, employment, and earnings; and

(f) Programs and services shall be accessible to employers, the self-employed, workers, and students who may benefit from their operation, including individuals with employment barriers, such as persons with economic, physical, or other barriers to employment;

(3) Screening designed to detect unidentified disabilities, including learning disabilities, improves workforce preparation and enhances the use of employment and training resources;

(4) Section 134(c)(2) of the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3174(c)(2), allows for the use of funds for the initial assessment of skill levels, aptitudes, abilities, and support services, including, when appropriate, comprehensive and specialized assessments of skill levels and service needs, including, but not limited to, diagnostic testing and the use of other assessment tools and indepth interviewing and evaluation to identify employment barriers and appropriate employment goals; and

(5) One-stop career centers are encouraged to maximize the use of federal Workforce Innovation and Opportunity Act resources and other federal and state workforce development resources for screening designed to detect unidentified disabilities, and if indicated, to provide appropriate diagnostic assessment.

Source: Laws 2016, LB1110, § 2.

48-3303 Career pathway, defined.

For purposes of the Nebraska Workforce Innovation and Opportunity Act, career pathway means an identified series of positions, work experiences, or educational benchmarks or credentials with multiple access points that offers occupational and financial advancement within a specified career field or related fields over time. Career pathways offer combined programs of rigorous and high-quality education, training, and other services that do all of the following:

(1) Align with the skill needs of industries in the state and regional economies;

(2) Prepare an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the National Apprenticeship Act, 29 U.S.C. 50 et seq., except apprenticeships under 29 U.S.C. 3226;

(3) Include counseling to support an individual in achieving the individual's education and career goals;

(4) Include, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation;

(5) Organize education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(6) Enable an individual to attain a secondary school diploma or its recognized equivalent and at least one recognized postsecondary credential; and

(7) Help an individual enter or advance within a specific occupation.

Source: Laws 2016, LB1110, § 3.

48-3304 Commissioner of Labor; performance report; duties.

On or before November 30 of each year, the Commissioner of Labor shall submit a copy of the performance report required by section 116(d) of the federal Workforce Innovation and Opportunity Act, 29 U.S.C. 3141(d), to the

Governor, the Legislature, and the Nebraska Workforce Development Board. The report shall cover the prior program year and shall include the total amount of federal funding provided to the state and to each of the local workforce development areas for the adult, youth, and dislocated worker programs and the amount expended within each program for training services. The report to the Legislature shall be submitted electronically.

Source: Laws 2016, LB1110, § 4.

48-3305 Department of Labor; powers; rules and regulations.

(1) The Department of Labor shall have the authority to administer the requirements of Title I of the federal Workforce Innovation and Opportunity Act, including, but not limited to, establishing accounting, monitoring, auditing, and reporting procedures and criteria in order to ensure state compliance with the objectives and requirements of Title I of the federal Workforce Innovation and Opportunity Act.

(2) The department may adopt and promulgate any rules and regulations necessary to implement the Nebraska Workforce Innovation and Opportunity Act.

Source: Laws 2016, LB1110, § 5.

ARTICLE 34

SECTOR PARTNERSHIP PROGRAM ACT

Section

- 48-3401. Act, how cited.
- 48-3402. Legislative findings, declarations, and intent.
- 48-3403. Terms, defined.
- 48-3404. Sector Partnership Program; created; Department of Labor; duties; Department of Economic Development; contracts authorized; completed studies; public information.
- 48-3405. Sector Partnership Program Fund; created; use; investment.
- 48-3406. Report.
- 48-3407. Rules and regulations.

48-3401 Act, how cited.

Sections 48-3401 to 48-3407 shall be known and may be cited as the Sector Partnership Program Act.

Source: Laws 2016, LB1110, § 6.

48-3402 Legislative findings, declarations, and intent.

(1) The Legislature finds and declares that sector partnerships are a proven strategy for engaging employers in key industries, helping workers train for and access good jobs, and coordinating education, training, and workforce development activities in response to industry needs.

(2) It is the intent of the Legislature and the purpose of the Sector Partnership Program Act to support local sector partnerships that will close skill gaps in high-demand sectors of business and industry. By conducting labor availability and skills gap studies, the Sector Partnership Program will connect education and training providers with employers and will ensure that the state's workforce and economic development activities align with the needs of employers in the state's key industries.

Source: Laws 2016, LB1110, § 7.

48-3403 Terms, defined.

For purposes of the Sector Partnership Program Act:

- (1) Department means the Department of Labor;
- (2) Local area means a workforce development area authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska;
- (3) Local sector partnership or partnership means a workforce collaborative that organizes key stakeholders in a particular sector of business or industry in a local area into a working group that focuses on the shared goals and human resources needs of such sector;
- (4) Local workforce development board means a local workforce development board authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska; and
- (5) Nebraska Workforce Development Board means the state workforce development board authorized by the federal Workforce Innovation and Opportunity Act and established in Nebraska.

Source: Laws 2016, LB1110, § 8.

48-3404 Sector Partnership Program; created; Department of Labor; duties; Department of Economic Development; contracts authorized; completed studies; public information.

(1) The Sector Partnership Program is created. The program shall be administered by the Department of Labor in conjunction with the Department of Economic Development. In establishing and administering the program, the Department of Labor shall consult with the Nebraska Workforce Development Board, the Department of Economic Development, and the State Department of Education.

(2) The Department of Labor, in conjunction with the Department of Economic Development, shall:

- (a) Establish a study process to conduct labor availability and skills gap studies;
- (b) Determine the laborshed areas of the state; and
- (c) Complete labor availability and skills gap studies for all laborshed areas of the state on a rotating basis as determined by the Department of Labor.

(3) The Department of Labor and the Department of Economic Development may contract with other entities to conduct additional labor availability, skills gap, and sector partnership studies.

(4) The Department of Labor, in conjunction with the Department of Economic Development, shall provide technical assistance to local sector partnerships and persons interested in forming partnerships. Technical assistance may include providing: (a) Direction and counseling on forming and sustaining partnerships; (b) professional development and capacity building through academies, toolkits, and peer sharing networks; (c) customized labor market and economic analysis; and (d) information on career pathways, worker training resources, skill standards, and industry-based certifications.

(5) Except to the extent otherwise provided in state or federal law, all completed labor availability and skills gap studies shall be public information.

Source: Laws 2016, LB1110, § 9.

48-3405 Sector Partnership Program Fund; created; use; investment.

(1) The Sector Partnership Program Fund is created. The fund shall be administered by the Department of Labor. The fund shall be used to pursue sector partnership activities, including, but not limited to, labor availability and skills gap studies by the Department of Labor and the Department of Economic Development pursuant to the Sector Partnership Program Act. The fund may also be used for administrative costs of the Department of Labor and the Department of Economic Development associated with sector partnership activities.

(2) The fund shall consist of such money as is: (a) Transferred to the fund from the Job Training Cash Fund and the Nebraska Training and Support Cash Fund; (b) otherwise appropriated to the fund by the Legislature; (c) donated as gifts, bequests, or other contributions to the fund from public or private entities; and (d) made available by any department or agency of the United States if so directed by such department or agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2016, LB1110, § 10.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

48-3406 Report.

On or before July 31 of each year, the department shall provide an annual report to the Governor and the Business and Labor Committee of the Legislature. The report submitted to the Legislature shall be submitted electronically. The report shall detail the process and results of the labor availability and skills gap studies.

Source: Laws 2016, LB1110, § 11.

48-3407 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Sector Partnership Program Act.

Source: Laws 2016, LB1110, § 12.

ARTICLE 35**WORKPLACE PRIVACY ACT**

Section

- 48-3501. Act, how cited.
- 48-3502. Terms, defined.
- 48-3503. Employer; prohibited acts.
- 48-3504. Waiver of right or protection under act prohibited.
- 48-3505. Retaliation or discrimination.
- 48-3506. Employee acts prohibited.
- 48-3507. Employer's rights not limited by act.
- 48-3508. Law enforcement agency rights.
- 48-3509. Personal Internet account; employer; duty; liability.
- 48-3510. Employer; limit on liability and use of certain information.
- 48-3511. Civil action authorized.

48-3501 Act, how cited.

Sections 48-3501 to 48-3511 shall be known and may be cited as the Workplace Privacy Act.

Source: Laws 2016, LB821, § 1.

48-3502 Terms, defined.

For purposes of the Workplace Privacy Act:

(1) Adverse action means the discharge of an employee, a threat against an employee, or any other act against an employee that negatively affects the employee's employment;

(2) Applicant means a prospective employee applying for employment;

(3) Electronic communication device means a cellular telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device;

(4) Employee means an individual employed by an employer;

(5) Employer means a public or nonpublic entity or an individual engaged in a business, an industry, a profession, a trade, or other enterprise in the state, including any agent, representative, or designee acting directly or indirectly in the interest of such an employer; and

(6)(a) Personal Internet account means an individual's online account that requires login information in order to access or control the account.

(b) Personal Internet account does not include:

(i) An online account that an employer or educational institution supplies or pays for, except when the employer or educational institution pays only for additional features or enhancements to the online account; or

(ii) An online account that is used exclusively for a business purpose of the employer.

Source: Laws 2016, LB821, § 2.

48-3503 Employer; prohibited acts.

No employer shall:

(1) Require or request that an employee or applicant provide or disclose any user name or password or any other related account information in order to gain access to the employee's or applicant's personal Internet account by way of an electronic communication device;

(2) Require or request that an employee or applicant log into a personal Internet account by way of an electronic communication device in the presence of the employer in a manner that enables the employer to observe the contents of the employee's or applicant's personal Internet account or provides the employer access to the employee's or applicant's personal Internet account;

(3) Require an employee or applicant to add anyone, including the employer, to the list of contacts associated with the employee's or applicant's personal Internet account or require or otherwise coerce an employee or applicant to change the settings on the employee's or applicant's personal Internet account which affects the ability of others to view the content of such account; or

(4) Take adverse action against, fail to hire, or otherwise penalize an employee or applicant for failure to provide or disclose any of the information or to take any of the actions specified in subdivisions (1) through (3) of this section.

Source: Laws 2016, LB821, § 3.

48-3504 Waiver of right or protection under act prohibited.

An employer shall not require an employee or applicant to waive or limit any protection granted under the Workplace Privacy Act as a condition of continued employment or of applying for or receiving an offer of employment. Any agreement to waive any right or protection under the act is against the public policy of this state and is void and unenforceable.

Source: Laws 2016, LB821, § 4.

48-3505 Retaliation or discrimination.

An employer shall not retaliate or discriminate against an employee or applicant because the employee or applicant:

- (1) Files a complaint under the Workplace Privacy Act; or
- (2) Testifies, assists, or participates in an investigation, proceeding, or action concerning a violation of the act.

Source: Laws 2016, LB821, § 5.

48-3506 Employee acts prohibited.

An employee shall not download or transfer an employer's private proprietary information or private financial data to a personal Internet account without authorization from the employer. This section shall not apply if the proprietary information or the financial data is otherwise disclosed by the employer to the public pursuant to other provisions of law or practice.

Source: Laws 2016, LB821, § 6.

48-3507 Employer's rights not limited by act.

Nothing in the Workplace Privacy Act limits an employer's right to:

(1) Promulgate and maintain lawful workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use and personal Internet account use;

(2) Request or require an employee or applicant to disclose access information to the employer to gain access to or operate:

(a) An electronic communication device supplied by or paid for in whole or in part by the employer; or

(b) An account or service provided by the employer, obtained by virtue of the employee's employment relationship with the employer, or used for the employer's business purposes;

(3) Restrict or prohibit an employee's access to certain web sites while using an electronic communication device supplied by or paid for in whole or in part by the employer or while using an employer's network or resources, to the extent permissible under applicable laws;

(4) Monitor, review, access, or block electronic data stored on an electronic communication device supplied by or paid for in whole or in part by the employer or stored on an employer's network, to the extent permissible under applicable laws;

(5) Access information about an employee or applicant that is in the public domain or is otherwise obtained in compliance with the Workplace Privacy Act;

(6) Conduct an investigation or require an employee to cooperate in an investigation under any of the following circumstances:

(a) If the employer has specific information about potentially wrongful activity taking place on the employee's personal Internet account, for the purpose of ensuring compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct; or

(b) If the employer has specific information about an unauthorized download or transfer of the employer's private proprietary information, private financial data, or other confidential information to an employee's personal Internet account;

(7) Take adverse action against an employee for downloading or transferring an employer's private proprietary information or private financial data to a personal Internet account without the employer's authorization;

(8) Comply with requirements to screen employees or applicants before hiring or to monitor or retain employee communications that are established by state or federal law or by a self-regulatory organization as defined in 15 U.S.C. 78c(a)(26), as such section existed on January 1, 2016; or

(9) Comply with a law enforcement investigation conducted by a law enforcement agency.

Source: Laws 2016, LB821, § 7.

48-3508 Law enforcement agency rights.

Nothing in the Workplace Privacy Act limits a law enforcement agency's right to screen employees or applicants in connection with a law enforcement employment application or a law enforcement officer conduct investigation.

Source: Laws 2016, LB821, § 8.

48-3509 Personal Internet account; employer; duty; liability.

(1) The Workplace Privacy Act does not create a duty for an employer to search or monitor the activity of a personal Internet account.

(2) An employer is not liable under the act for failure to request or require that an employee or applicant grant access to, allow observation of, or disclose information that allows access to or observation of the employee's or applicant's personal Internet account.

Source: Laws 2016, LB821, § 9.

48-3510 Employer; limit on liability and use of certain information.

If an employer inadvertently learns the user name, password, or other means of access to an employee's or applicant's personal Internet account through the use of otherwise lawful technology that monitors the employer's computer network or employer-provided electronic communication devices for service quality or security purposes, the employer is not liable for obtaining the

information, but the employer shall not use the information to access the employee's or applicant's personal Internet account or share the information with anyone. The employer shall delete such information as soon as practicable.

Source: Laws 2016, LB821, § 10.

48-3511 Civil action authorized.

Upon violation of the Workplace Privacy Act, an aggrieved employee or applicant may, in addition to any other available remedy, institute a civil action within one year after the date of the alleged violation or the discovery of the alleged violation, whichever is later. The employee or applicant shall file an action directly in the district court of the county where such alleged violation occurred. The district court shall file and try such case as any other civil action, and any successful complainant shall be entitled to appropriate relief, including temporary or permanent injunctive relief, general and special damages, reasonable attorney's fees, and costs.

Source: Laws 2016, LB821, § 11; Laws 2018, LB193, § 85.

Operative date July 19, 2018.

CHAPTER 49

LAW

Article.

5. Publication and Distribution of Session Laws and Journals. 49-501.01, 49-506.
6. Printing and Distribution of Statutes. 49-617.
7. Statute Revision. 49-707 to 49-770.
8. Definitions, Construction, and Citation. 49-801.01.
9. Commission on Uniform State Laws. 49-904.
14. Nebraska Political Accountability and Disclosure Act.
 - (a) General Provisions. 49-1401 to 49-1433.01.
 - (b) Campaign Practices. 49-1445 to 49-1479.02.
 - (c) Lobbying Practices. 49-1483 to 49-1492.01.
 - (d) Conflicts of Interest. 49-1493 to 49-14,102.
 - (e) Nebraska Accountability and Disclosure Commission. 49-14,120 to 49-14,140.
 - (f) Digital and Electronic Filing. 49-14,141.
 - (g) Payment of Civil Penalties. 49-14,142.
15. Nebraska Short Form Act. Repealed.
17. Constitution of Nebraska. 49-1701.
18. Uniform Unsworn Foreign Declarations Act. 49-1801 to 49-1807.

ARTICLE 5

PUBLICATION AND DISTRIBUTION OF SESSION LAWS AND JOURNALS

Section

- 49-501.01. Session laws and journal; Clerk of the Legislature; compile; contents.
 49-506. Distribution by Secretary of State.

49-501.01 Session laws and journal; Clerk of the Legislature; compile; contents.

The session laws and journal of the Legislature shall be compiled and published by the Clerk of the Legislature after each regular session of the Legislature. The session laws and journal may be published in print or electronic format or in both formats. The session laws shall contain all the laws passed by the preceding session as well as those passed during any special session since the last regular session. The session laws shall also contain a certified copy of the Constitution of Nebraska as required by section 49-1701. The clerk shall distribute one copy of the session laws and journal to each person who was a member of the Legislature by which the laws were enacted and shall distribute a second copy to any such person upon his or her request. The clerk shall provide the session laws and journals to the Secretary of State for distribution pursuant to sections 49-501 to 49-509.01.

Source: Laws 1971, LB 36, § 1; Laws 2000, LB 534, § 1; Laws 2010, LB770, § 1; Laws 2016, LB686, § 2.

49-506 Distribution by Secretary of State.

After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format

as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental Quality, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Revenue, the Department of Transportation, the Department of Veterans' Affairs, the Department of Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Source: Laws 1907, c. 78, § 6, p. 290; R.S.1913, § 3738; C.S.1922, § 3131; C.S.1929, § 49-506; R.S.1943, § 49-506; Laws 1947, c. 185, § 4, p. 611; Laws 1961, c. 243, § 2, p. 725; Laws 1969, c. 413, § 1, p. 1419; Laws 1972, LB 1284, § 17; Laws 1987, LB 572, § 2; Laws 1991, LB 663, § 34; Laws 1991, LB 732, § 117; Laws 1993, LB 3, § 34; Laws 1995, LB 271, § 6; Laws 1996, LB 906, § 1; Laws 1996, LB 1044, § 277; Laws 1999, LB 36, § 3;

Laws 2000, LB 534, § 3; Laws 2000, LB 900, § 240; Laws 2000, LB 1085, § 2; Laws 2007, LB296, § 222; Laws 2007, LB334, § 6; Laws 2017, LB339, § 176.

ARTICLE 6

PRINTING AND DISTRIBUTION OF STATUTES

Section

49-617. Printing of statutes; distribution of copies.

49-617 Printing of statutes; distribution of copies.

The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; thirteen copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; three copies to the Tax Equalization and Review Commission; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, the Commissioner of Labor, the Auditor of Public Accounts, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Economic Development, the director of the Nebraska Public Employees Retirement Systems, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each commissioner of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court,

each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Source: Laws 1943, c. 115, § 17, p. 407; R.S.1943, § 49-617; Laws 1944, Spec. Sess., c. 3, § 5, p. 100; Laws 1947, c. 185, § 5, p. 612; Laws 1951, c. 345, § 1, p. 1132; Laws 1957, c. 210, § 3, p. 743; Laws 1961, c. 242, § 2, p. 722; Laws 1961, c. 243, § 3, p. 725; Laws 1961, c. 415, § 5, p. 1247; Laws 1961, c. 416, § 8, p. 1266; Laws 1963, c. 303, § 3, p. 898; Laws 1965, c. 305, § 1, p. 858; Laws 1967, c. 325, § 1, p. 863; Laws 1967, c. 326, § 1, p. 865; Laws 1971, LB 36, § 4; Laws 1972, LB 1032, § 254; Laws 1972, LB 1174, § 1; Laws 1972, LB 1284, § 18; Laws 1973, LB 1, § 5; Laws 1973, LB 563, § 4; Laws 1973, LB 572, § 1; Laws 1974, LB 595, § 1; Laws 1975, LB 59, § 4; Laws 1978, LB 168, § 1; Laws 1984, LB 13, § 82; Laws 1985, LB 498, § 2; Laws 1987, LB 572, § 6; Laws 1991, LB 732, § 118; Laws 1992, Third Spec. Sess., LB 14, § 3; Laws 1995, LB 271, § 7; Laws 1996, LB 906, § 2; Laws 1996, LB 1044, § 278; Laws 1999, LB 36, § 4; Laws 2000, LB 692, § 9; Laws 2000, LB 900, § 241; Laws 2000, LB 1085, § 3; Laws 2007, LB296, § 223; Laws 2007, LB334, § 7; Laws 2007, LB472, § 8; Laws 2010, LB770, § 3; Laws 2011, LB384, § 1; Laws 2017, LB339, § 177.

ARTICLE 7 STATUTE REVISION

Section

- 49-707. Copyright; distribution; price; disposition of proceeds; receipts.
 49-708. Nebraska Statutes Cash Fund; Nebraska Statutes Distribution Cash Fund; created; use; investment.
 49-770. Section of statutes; not correlated; not reconcilable; Revisor of Statutes; duties.

49-707 Copyright; distribution; price; disposition of proceeds; receipts.

The Revisor of Statutes shall cause the supplements and reissued volumes to be copyrighted under the copyright laws of the United States for the benefit of the people of Nebraska.

The supplements and reissued or replacement volumes shall be sold and distributed by the Supreme Court at such price as shall be prescribed by the Executive Board of the Legislative Council, which price shall be sufficient to recover all costs of publication and distribution.

The Supreme Court may sell for one dollar per volume any compilation or revision of the statutes of Nebraska that has been superseded by a later official revision, compilation, or replacement volume. The Supreme Court may dispose of any unsold superseded volumes in any manner it deems proper.

All money received by the Supreme Court from the sale of the supplements and reissued or replacement volumes shall be paid into the state treasury to the credit of the Nebraska Statutes Cash Fund or the Nebraska Statutes Distribution Cash Fund, as appropriate. That portion of the money received that represents the costs of publication shall be credited to the Nebraska Statutes Cash Fund, and that portion of the money received that represents the costs of distribution shall be credited to the Nebraska Statutes Distribution Cash Fund. The court shall take receipts for all such money paid into the funds.

Supplements and reissued volumes shall be furnished and delivered free of charge in the same number and to the same parties as are designated in section 49-617.

Source: Laws 1945, c. 119, § 7, p. 394; Laws 1965, c. 306, § 5, p. 862; Laws 1965, c. 305, § 2, p. 860; Laws 1977, LB 8, § 3; Laws 1980, LB 598, § 3; Laws 1986, LB 991, § 1; Laws 1987, LB 572, § 7; Laws 2012, LB576, § 1.

49-708 Nebraska Statutes Cash Fund; Nebraska Statutes Distribution Cash Fund; created; use; investment.

The Nebraska Statutes Cash Fund is created. The fund shall consist of funds received pursuant to section 49-707. The fund shall be used by the Revisor of Statutes to perform the duties required by subdivision (4) of section 49-702 and section 49-704, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Statutes Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The Nebraska Statutes Distribution Cash Fund is created. The fund shall consist of funds received pursuant to section 49-707. The fund shall be used by the Supreme Court to perform the duties required by such section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2012, LB576, § 2.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

49-770 Section of statutes; not correlated; not reconcilable; Revisor of Statutes; duties.

When one section of the statutes is amended in two or more bills in the same session of the Legislature and has not been correlated as a part of the normal legislative process and the amendments are not entirely reconcilable and are in conflict with each other, it shall be the duty of the Revisor of Statutes to cause only the latest version to pass the Legislature to be published in the statutory supplement followed by a brief note explaining the action taken. The Revisor of Statutes shall report electronically each such case to the chairperson of the

appropriate standing committee at or prior to the convening of the next regular session of the Legislature for whatever action may be appropriate.

Source: Laws 1979, LB 70, § 2; Laws 2012, LB782, § 68.

ARTICLE 8 DEFINITIONS, CONSTRUCTION, AND CITATION

Section

49-801.01. Internal Revenue Code; reference.

49-801.01 Internal Revenue Code; reference.

Except as provided by Article VIII, section 1B, of the Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109, 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902, 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515, 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802, 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306, any reference to the Internal Revenue Code refers to the Internal Revenue Code of 1986 as it exists on April 12, 2018.

Source: Laws 1995, LB 574, § 1; Laws 1996, LB 984, § 1; Laws 1997, LB 46, § 1; Laws 1998, LB 1015, § 2; Laws 1999, LB 33, § 1; Laws 2000, LB 944, § 1; Laws 2001, LB 122, § 1; Laws 2001, LB 620, § 45; Laws 2002, LB 989, § 8; Laws 2003, LB 281, § 1; Laws 2004, LB 1017, § 1; Laws 2005, LB 312, § 1; Laws 2005, LB 383, § 1; Laws 2006, LB 1003, § 2; Laws 2007, LB315, § 1; Laws 2008, LB896, § 1; Laws 2009, LB251, § 1; Laws 2010, LB879, § 2; Laws 2011, LB134, § 1; Laws 2011, LB389, § 11; Laws 2012, LB725, § 1; Laws 2012, LB1128, § 20; Laws 2013, LB24, § 1; Laws 2014, LB191, § 13; Laws 2014, LB739, § 1; Laws 2015, LB171, § 1; Laws 2017, LB234, § 1; Laws 2018, LB1091, § 1.

Effective date April 12, 2018.

ARTICLE 9 COMMISSION ON UNIFORM STATE LAWS

Section

49-904. Members; duties.

49-904 Members; duties.

Each commissioner shall attend the meeting of the National Conference of Commissioners on Uniform State Laws, and both in and out of such national conference shall do all in his or her power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable. The commission shall report electronically to the Clerk of the Legislature from time to time as the commission may deem proper, an account of its transactions, and its advice and recommendations for legislation. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the chairperson of the commission. It shall also be the duty of the commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws.

Source: Laws 1951, c. 166, § 4, p. 650; Laws 1979, LB 322, § 20; Laws 1981, LB 545, § 12; Laws 2012, LB782, § 69.

POLITICAL ACCOUNTABILITY AND DISCLOSURE

ARTICLE 14

NEBRASKA POLITICAL ACCOUNTABILITY AND DISCLOSURE ACT

(a) GENERAL PROVISIONS

Section

- 49-1401. Act, how cited.
- 49-1413. Committee, defined.
- 49-1415. Contribution, defined.
- 49-1433.01. Major out-of-state contributor, defined.

(b) CAMPAIGN PRACTICES

- 49-1445. Candidate for office; candidate committee; slate or team; committee; when formed; violation; penalty.
- 49-1446. Committee; treasurer; depository account; contributions and expenditures; requirements; reports; commingling funds; violations; penalty.
- 49-1446.04. Candidate committee; loans; restrictions; civil penalty.
- 49-1447. Committee treasurer; statements or reports; duties; committee records; violation; penalty.
- 49-1455. Committee campaign statement; contents.
- 49-1456. Committee account; income; how treated; loans.
- 49-1457. Political party committee; campaign statement; contents, enumerated; contribution and expenditure information.
- 49-1459. Campaign statements; filing schedule; statement of exemption.
- 49-1461.01. Ballot question committee; surety bond; requirements; violations; penalty.
- 49-1463. Campaign statement; statement of exemption; violations; late filing fee.
- 49-1463.01. Late filing fee; relief; reduction or waiver; when.
- 49-1464. Campaign statements of committees; where filed.
- 49-1467. Person; independent expenditure report; when filed; contents; late filing fee; violation; penalty.
- 49-1469. Businesses and organizations; contributions, expenditures, or services; report; contents; separate segregated political fund; when required.
- 49-1469.05. Businesses and organizations; separate segregated political fund; restrictions.
- 49-1469.06. Businesses and organizations; separate segregated political fund; contributions and expenditures; limitations.
- 49-1469.07. Businesses and organizations; separate segregated political fund; status.
- 49-1469.08. Businesses and organizations; late filing fee; violation; penalty.
- 49-1477. Contributions from persons other than committee; information required; violation; penalty.
- 49-1479.02. Major out-of-state contributor; report; contents; applicability; late filing fee.

(c) LOBBYING PRACTICES

- 49-1483. Lobbyist and principal; file separate statements; when; contents.
- 49-1483.03. Lobbyist or principal; special report required; when; late filing fee.
- 49-1488. Registered lobbyist; statement of activity during regular or special session; when filed.
- 49-1488.01. Statements; late filing fee; reduction or waiver; when.
- 49-1492.01. Agency, political subdivision, or publicly funded postsecondary educational institution; gifts; reporting requirements; violations; penalty.

(d) CONFLICTS OF INTEREST

- 49-1493. Individuals required to file a statement of financial interests.
- 49-1494. Candidates for elective office; statement of financial interest; filing; time; supplementary statements; failure to file; effect.
- 49-1497. Financial institution, defined; irrevocable trust; how treated.
- 49-14,102. Contracts with government bodies; procedure; powers of certain cities; purpose.

Section

(e) NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

- 49-14,120. Commission; members; expenses.
- 49-14,122. Commission; field investigations and audits; purpose.
- 49-14,123. Commission; duties.
- 49-14,124. Alleged violation; preliminary investigation by commission; powers; notice.
- 49-14,124.01. Preliminary investigation; confidential; exception.
- 49-14,124.02. Commission; possible criminal violation; referral to Attorney General; duties of Attorney General.
- 49-14,125. Preliminary investigation; terminated, when; violation; effect; powers of commission; subsequent proceedings; records.
- 49-14,126. Commission; violation; orders; civil penalty; costs of hearing.
- 49-14,129. Commission; suspend or modify reporting requirements; conditions.
- 49-14,132. Filings; limitation of use.
- 49-14,133. Criminal prosecution; Attorney General; concurrent jurisdiction with county attorney.
- 49-14,140. Nebraska Accountability and Disclosure Commission Cash Fund; created; use; investment.

(f) DIGITAL AND ELECTRONIC FILING

- 49-14,141. Electronic filing system; campaign statements and reports; availability; procedures for filings.

(g) PAYMENT OF CIVIL PENALTIES

- 49-14,142. Payment of civil penalty.

(a) GENERAL PROVISIONS

49-1401 Act, how cited.

Sections 49-1401 to 49-14,142 shall be known and may be cited as the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1976, LB 987, § 1; Laws 1981, LB 134, § 1; Laws 1986, LB 548, § 11; Laws 1987, LB 480, § 1; Laws 1989, LB 815, § 1; Laws 1991, LB 232, § 1; Laws 1994, LB 872, § 1; Laws 1994, LB 1243, § 2; Laws 1995, LB 28, § 3; Laws 1995, LB 399, § 1; Laws 1997, LB 49, § 1; Laws 1997, LB 420, § 15; Laws 1999, LB 581, § 1; Laws 2000, LB 438, § 1; Laws 2000, LB 1021, § 1; Laws 2001, LB 242, § 1; Laws 2002, LB 1003, § 34; Laws 2005, LB 242, § 2; Laws 2007, LB464, § 2; Laws 2007, LB527, § 1; Laws 2009, LB322, § 1; Laws 2009, LB626, § 1; Laws 2017, LB85, § 3.

49-1413 Committee, defined.

(1) Committee shall mean (a) any combination of two or more individuals which receives contributions or makes expenditures of more than five thousand dollars in a calendar year for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates or the qualification, passage, or defeat of one or more ballot questions or (b) a person whose primary purpose is to receive contributions or make expenditures and who receives or makes contributions or expenditures of more than five thousand dollars in a calendar year for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates or the qualification, passage, or defeat of one or more ballot questions, except that an individual, other than a candidate, shall not constitute a committee.

(2) Except as otherwise provided in section 49-1445, a committee shall be considered formed and subject to the Nebraska Political Accountability and Disclosure Act upon raising, receiving, or spending more than five thousand dollars in a calendar year as prescribed in this section.

(3) A corporation, labor organization, industry, trade, or professional association, limited liability company, or limited liability partnership is not a committee if it makes expenditures or provides personal services pursuant to sections 49-1469 to 49-1469.08.

Source: Laws 1976, LB 987, § 13; Laws 1980, LB 535, § 3; Laws 1983, LB 230, § 1; Laws 1987, LB 480, § 2; Laws 1999, LB 416, § 2; Laws 2005, LB 242, § 4; Laws 2013, LB79, § 2; Laws 2014, LB946, § 21.

49-1415 Contribution, defined.

(1) Contribution shall mean a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, donation, pledge or promise of money or anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned.

(2) Contribution shall include the purchase of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and similar fundraising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; and the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office.

(3) Contribution shall not include:

(a) Volunteer personal services provided without compensation, or payments of costs incurred of less than two hundred fifty dollars in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred without any understanding or agreement that the costs shall be, directly or indirectly, repaid;

(b) Amounts received pursuant to a pledge or promise to the extent that the amounts were previously reported as a contribution; or

(c) Food and beverages, in the amount of not more than fifty dollars in value during a calendar year, which are donated by an individual and for which reimbursement is not given.

Source: Laws 1976, LB 987, § 15; Laws 2013, LB79, § 3; Laws 2014, LB946, § 22.

49-1433.01 Major out-of-state contributor, defined.

Major out-of-state contributor means a corporation, union, industry association, trade association, or professional association which is not organized under the laws of the State of Nebraska and which makes contributions or expenditures totaling more than ten thousand dollars in any calendar year in connection with one or more elections.

Source: Laws 1997, LB 49, § 6; Laws 2013, LB79, § 4; Laws 2014, LB946, § 23.

(b) CAMPAIGN PRACTICES

49-1445 Candidate for office; candidate committee; slate or team; committee; when formed; violation; penalty.

(1) A candidate shall form a candidate committee upon raising, receiving, or expending more than five thousand dollars in a calendar year.

(2) A candidate committee may consist of one member with the candidate being the member.

(3) A person who is a candidate for more than one office shall form a candidate committee for an office upon raising, receiving, or expending more than five thousand dollars in a calendar year for that office.

(4) Two or more candidates who campaign as a slate or team for public office shall form a committee upon raising, receiving, or expending jointly in any combination more than five thousand dollars in a calendar year.

(5) The fee to file for office shall not be included in determining if a candidate has raised, received, or expended more than five thousand dollars in a calendar year.

(6) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1976, LB 987, § 45; Laws 1980, LB 535, § 5; Laws 1983, LB 230, § 2; Laws 1987, LB 480, § 3; Laws 1990, LB 601, § 1; Laws 1999, LB 416, § 3; Laws 2005, LB 242, § 7; Laws 2013, LB79, § 5; Laws 2014, LB946, § 24.

49-1446 Committee; treasurer; depository account; contributions and expenditures; requirements; reports; commingling funds; violations; penalty.

(1) Each committee shall have a treasurer who is a qualified elector of this state. A candidate may appoint himself or herself as the candidate committee treasurer.

(2) Each committee shall designate one account in a financial institution in this state as an official depository for the purpose of depositing all contributions which it receives in the form of or which are converted to money, checks, or other negotiable instruments and for the purpose of making all expenditures. Secondary depositories shall be used for the sole purpose of depositing contributions and promptly transferring the deposits to the committee's official depository.

(3) No contribution shall be accepted and no expenditure shall be made by a committee which has not filed a statement of organization and which does not have a treasurer. When the office of treasurer in a candidate committee is vacant, the candidate shall be the treasurer until the candidate appoints a new treasurer.

(4) No expenditure shall be made by a committee without the authorization of the treasurer or the assistant treasurer. The contributions received or expenditures made by a candidate or an agent of a candidate shall be considered received or made by the candidate committee.

(5) Contributions received by an individual acting in behalf of a committee shall be reported promptly to the committee's treasurer not later than five days before the closing date of any campaign statement required to be filed by the

committee and shall be reported to the committee treasurer immediately if the contribution is received less than five days before the closing date.

(6) A contribution shall be considered received by a committee when it is received by the committee treasurer or a designated agent of the committee treasurer notwithstanding the fact that the contribution is not deposited in the official depository by the reporting deadline.

(7) Contributions received by a committee shall not be commingled with any funds of an agent of the committee or of any other person except for funds received or disbursed by a separate segregated political fund for the purpose of supporting or opposing candidates and committees in elections in states other than Nebraska and candidates for federal office, as provided in section 49-1469.06, including independent expenditures made in such elections.

(8) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1976, LB 987, § 46; Laws 1977, LB 41, § 40; Laws 1980, LB 535, § 6; Laws 1988, LB 1136, § 1; Laws 1993, LB 587, § 12; Laws 2005, LB 242, § 8; Laws 2013, LB79, § 6.

49-1446.04 Candidate committee; loans; restrictions; civil penalty.

(1) A candidate committee shall not accept more than fifteen thousand dollars in loans prior to or during the first thirty days after formation of the candidate committee.

(2) After the thirty-day period and until the end of the term of the office to which the candidate sought nomination or election, the candidate committee shall not accept loans in an aggregate amount of more than fifty percent of the contributions of money, other than the proceeds of loans, which the candidate committee has received during such period as of the date of the receipt of the proceeds of the loan. Any loans which have been repaid as of such date shall not be taken into account for purposes of the aggregate loan limit.

(3) A candidate committee shall not pay interest, fees, gratuities, or other sums in consideration of a loan, advance, or other extension of credit to the candidate committee by the candidate, a member of the candidate's immediate family, or any business with which the candidate is associated.

(4) The penalty for violation of this section shall be a civil penalty of not less than two hundred fifty dollars and not more than the amount of money received by a candidate committee in violation of this section if the candidate committee received more than two hundred fifty dollars. The commission shall assess and collect the civil penalty and shall remit the penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1995, LB 399, § 2; Laws 2005, LB 242, § 12; Laws 2006, LB 188, § 13; Laws 2013, LB79, § 7.

49-1447 Committee treasurer; statements or reports; duties; committee records; violation; penalty.

(1) The committee treasurer shall keep detailed accounts, records, bills, and receipts necessary to substantiate the information contained in a statement or report filed pursuant to sections 49-1445 to 49-1479.02 or rules and regulations

adopted and promulgated under the Nebraska Political Accountability and Disclosure Act.

(2)(a) For any committee other than a candidate committee, the committee treasurer shall be responsible for filing all statements and reports of the committee required to be filed under the act and shall be personally liable subject to section 49-1461.01 for any late filing fees, civil penalties, and interest that may be due under the act as a result of a failure to make such filings.

(b) For candidate committees, the candidate shall be responsible for filing all statements and reports required to be filed by his or her candidate committee under the Nebraska Political Accountability and Disclosure Act. The candidate shall be personally liable for any late filing fees, civil penalties, and interest that may be due under the act as a result of a failure to make such filings and may use funds of the candidate committee to pay such fees, penalties, and interest.

(3) The committee treasurer shall record the name and address of each person from whom a contribution is received except for contributions of fifty dollars or less received pursuant to subsection (2) of section 49-1472.

(4) The records of a committee shall be preserved for five years and shall be made available for inspection as authorized by the commission.

(5) Any person violating this section shall be guilty of a Class III misdemeanor.

Source: Laws 1976, LB 987, § 47; Laws 1977, LB 41, § 41; Laws 2000, LB 438, § 2; Laws 2005, LB 242, § 13; Laws 2013, LB79, § 8.

49-1455 Committee campaign statement; contents.

(1) The campaign statement of a committee, other than a political party committee, shall contain the following information:

(a) The filing committee's name, address, and telephone number and the full name, residential and business addresses, and telephone numbers of its committee treasurer;

(b) Under the heading RECEIPTS, the total amount of contributions received during the period covered by the campaign statement; under the heading EXPENDITURES, the total amount of expenditures made during the period covered by the campaign statement; and the cumulative amount of those totals for the election period. If a loan was repaid during the period covered by the campaign statement, the amount of the repayment shall be subtracted from the total amount of contributions received. Forgiveness of a loan shall not be included in the totals. Payment of a loan by a third party shall be recorded and reported as a contribution by the third party but shall not be included in the totals. In-kind contributions or expenditures shall be listed at fair market value and shall be reported as both contributions and expenditures;

(c) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;

(d) The full name of each individual from whom contributions totaling more than two hundred fifty dollars are received during the period covered by the report, together with the individual's street address, the amount contributed, the date on which each contribution was received, and the cumulative amount contributed by that individual for the election period;

(e) The full name of each person, except those individuals reported under subdivision (1)(d) of this section, which contributed a total of more than two hundred fifty dollars during the period covered by the report together with the person's street address, the amount contributed, the date on which each contribution was received, and the cumulative amount contributed by the person for the election period;

(f) The name of each committee which is listed as a contributor shall include the full name of the committee's treasurer;

(g) Except as otherwise provided in subsection (3) of this section: The full name and street address of each person to whom expenditures totaling more than two hundred fifty dollars were made, together with the date and amount of each separate expenditure to each such person during the period covered by the campaign statement; the purpose of the expenditure; and the full name and street address of the person providing the consideration for which any expenditure was made if different from the payee;

(h) The amount and the date of expenditures for or against a candidate or ballot question during the period covered by the campaign statement and the cumulative amount of expenditures for or against that candidate or ballot question for the election period. An expenditure made in support of more than one candidate or ballot question, or both, shall be apportioned reasonably among the candidates or ballot questions, or both; and

(i) The total amount of funds disbursed by a separate segregated political fund, by state, for the purpose of supporting or opposing candidates and committees in elections in states other than Nebraska and candidates for federal office, including independent expenditures made in such elections.

(2) For purposes of this section, election period means the calendar year of the election.

(3) A campaign statement shall include the total amount paid to individual petition circulators during the reporting period, if any, but shall not include the name, address, or telephone number of any individual petition circulator if the only payment made to such individual was for services as a petition circulator.

Source: Laws 1976, LB 987, § 55; Laws 1988, LB 1136, § 3; Laws 1993, LB 587, § 13; Laws 1997, LB 420, § 18; Laws 1999, LB 416, § 7; Laws 2008, LB39, § 6; Laws 2013, LB79, § 9; Laws 2014, LB946, § 25.

49-1456 Committee account; income; how treated; loans.

(1) Any income received by a committee on an account consisting of funds or property belonging to the committee shall not be considered a contribution to the committee but shall be reported as income. Any interest paid by a committee shall be reported as an expenditure.

(2) A loan made or received shall be set forth in a separate schedule providing the date and amount of the loan and, if the loan is repaid, the date and manner of repayment. The committee shall provide the name and address of the lender and any person who is liable directly, indirectly, or contingently on each loan of more than two hundred fifty dollars.

Source: Laws 1976, LB 987, § 56; Laws 1981, LB 134, § 3; Laws 1999, LB 416, § 8; Laws 2013, LB79, § 10; Laws 2014, LB946, § 26.

49-1457 Political party committee; campaign statement; contents, enumerated; contribution and expenditure information.

(1) The campaign statement filed by a political party committee shall contain the following information:

(a) The full name and street address of each person from whom contributions totaling more than two hundred fifty dollars in value are received in a calendar year, the amount, and the date or dates contributed; and if the person is a committee, the name and address of the committee and the full name and street address of the committee treasurer, together with the amount of the contribution and the date received;

(b) An itemized list of all expenditures, including in-kind contributions and expenditures and loans, made during the period covered by the campaign statement which were contributions to a candidate committee of a candidate for elective office or a ballot question committee; or independent expenditures in support of the qualification, passage, or defeat of a ballot question, or in support of the nomination or election of a candidate for elective office or the defeat of any of the candidate's opponents;

(c) The total expenditure by the committee for each candidate for elective office or ballot question in whose behalf an independent expenditure was made or a contribution was given for the election; and

(d) The filer's name, address, and telephone number, if any, and the full name, residential and business addresses, and telephone numbers of the committee treasurer.

(2) A contribution to a candidate or ballot question committee listed under subdivision (1)(b) of this section shall note the name and address of the committee, the name of the candidate and the office sought, if any, the amount contributed, and the date of the contribution.

(3) An independent expenditure listed under subdivision (1)(b) of this section shall note the name of the candidate for whose benefit the expenditure was made and the office sought by the candidate, or a brief description of the ballot question for which the expenditure was made, the amount, date, and purpose of the expenditure, and the full name and address of the person to whom the expenditure was made.

(4) An expenditure listed which was made in support of more than one candidate or ballot question, or both, shall be apportioned reasonably among the candidates or ballot questions, or both.

Source: Laws 1976, LB 987, § 57; Laws 1999, LB 416, § 9; Laws 2013, LB79, § 11; Laws 2014, LB946, § 27.

49-1459 Campaign statements; filing schedule; statement of exemption.

(1) Except as provided in subsection (2) of this section, campaign statements as required by the Nebraska Political Accountability and Disclosure Act shall be filed according to the following schedule:

(a) A first preelection campaign statement shall be filed not later than the thirtieth day before the election. The closing date for a campaign statement filed under this subdivision shall be the thirty-fifth day before the election;

(b) A second preelection campaign statement shall be filed not later than the tenth day before the election. The closing date for a campaign statement filed under this subdivision shall be the fifteenth day before the election; and

(c) A postelection campaign statement shall be filed not later than the fortieth day following the primary election and the seventieth day following the general election. The closing date for a postelection campaign statement to be filed under this subdivision after the primary election shall be the thirty-fifth day following the election. The closing date for a postelection campaign statement to be filed under this subdivision after the general election shall be December 31 of the year in which the election is held. If all liabilities of a candidate and committee are paid before the closing date and additional contributions are not expected, the campaign statement may be filed at any time after the election, but not later than the dates provided under this subdivision.

(2) Any committee may file a statement with the commission indicating that the committee does not expect to receive contributions or make expenditures of more than one thousand dollars in the calendar year of an election. Such statement shall be signed by the committee treasurer or the assistant treasurer, and in the case of a candidate committee, it shall also be signed by the candidate. Such statement shall be filed on or before the thirtieth day before the election. A committee which files a statement pursuant to this subsection is not required to file campaign statements according to the schedule prescribed in subsection (1) of this section but shall file a sworn statement of exemption not later than the fortieth day following the primary election and the seventieth day following the general election stating only that the committee did not, in fact, receive or expend an amount in excess of one thousand dollars. If the committee receives contributions or makes expenditures of more than one thousand dollars during the election year, the committee is then subject to all campaign filing requirements under subsection (1) of this section.

Source: Laws 1976, LB 987, § 59; Laws 1980, LB 535, § 10; Laws 1993, LB 587, § 14; Laws 1998, LB 632, § 3; Laws 1999, LB 416, § 11; Laws 2013, LB79, § 12.

49-1461.01 Ballot question committee; surety bond; requirements; violations; penalty.

(1) A ballot question committee shall file with the commission a surety bond running in favor of the State of Nebraska with surety by a corporate bonding company authorized to do business in this state and conditioned upon the payment of all fees, penalties, and interest which may be imposed under the Nebraska Political Accountability and Disclosure Act.

(2) A bond in the amount of five thousand dollars shall be filed with the commission within thirty days after the committee receives contributions or makes expenditures of more than one hundred thousand dollars in a calendar year, and the amount of the bond shall be increased by five thousand dollars for each additional five hundred thousand dollars received or expended in a calendar year.

(3) Proof of any required increase in the amount of the bond shall be filed with the commission within thirty days after each additional five hundred thousand dollars is received or expended. Any failure to pay late filing fees, civil penalties, or interest due under the act shall be recovered from the proceeds of the bond prior to recovery from the treasurer of the committee.

(4) Any person violating this section shall be guilty of a Class III misdemeanor.

Source: Laws 2000, LB 438, § 3; Laws 2005, LB 242, § 16; Laws 2013, LB79, § 13; Laws 2014, LB946, § 28.

49-1463 Campaign statement; statement of exemption; violations; late filing fee.

(1) Any person who fails to file a campaign statement with the commission under sections 49-1459 to 49-1463 shall pay to the commission a late filing fee of twenty-five dollars for each day the campaign statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars.

(2) Any committee which fails to file a statement of exemption with the commission under subsection (2) of section 49-1459 shall pay to the commission a late filing fee of twenty-five dollars for each day the statement of exemption remains not filed in violation of this section, not to exceed two hundred twenty-five dollars.

Source: Laws 1976, LB 987, § 63; Laws 1980, LB 535, § 13; Laws 1998, LB 632, § 4; Laws 1999, LB 416, § 12; Laws 2006, LB 188, § 14; Laws 2013, LB79, § 14.

49-1463.01 Late filing fee; relief; reduction or waiver; when.

(1) A person required to pay a late filing fee imposed under section 49-1449, 49-1458, 49-1463, 49-1467, 49-1469.08, 49-1478.01, or 49-1479.01 may apply to the commission for relief. The commission by order may reduce the amount of a late filing fee imposed and waive any or all of the interest due on the fee upon a showing by such person that (a) the circumstances indicate no intent to file late, (b) the person has not been required to pay late filing fees for two years prior to the time the filing was due, (c) the late filing shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (d) a reduction of the late fees and waiver of interest would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act.

(2) A person required to pay a late filing fee imposed for failure to file a statement of exemption under subsection (2) of section 49-1459 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and waive any or all of the interest due on the fee, and the person shall not be required to make a showing as provided by subsection (1) of this section.

Source: Laws 1987, LB 480, § 7; Laws 1996, LB 1263, § 2; Laws 1997, LB 420, § 19; Laws 1998, LB 632, § 5; Laws 2000, LB 438, § 7; Laws 2001, LB 242, § 4; Laws 2005, LB 242, § 17; Laws 2006, LB 188, § 15; Laws 2013, LB79, § 15; Laws 2014, LB946, § 29.

49-1464 Campaign statements of committees; where filed.

The campaign statement of any committee, including a candidate committee, a ballot question committee, or a political party committee, shall be filed with the commission.

Source: Laws 1976, LB 987, § 64; Laws 1980, LB 535, § 14; Laws 1993, LB 587, § 16; Laws 2001, LB 242, § 5; Laws 2013, LB79, § 16.

49-1467 Person; independent expenditure report; when filed; contents; late filing fee; violation; penalty.

(1) Any person, other than a committee, who makes an independent expenditure advocating the election of a candidate or the defeat of a candidate's opponents or the qualification, passage, or defeat of a ballot question, which is in an amount of more than two hundred fifty dollars, shall file a report of the independent expenditure, within ten days, with the commission.

(2) The report shall be made on an independent expenditure report form provided by the commission and shall include the date of the expenditure, a brief description of the nature of the expenditure, the amount of the expenditure, the name and address of the person to whom it was paid, the name and address of the person filing the report, and the name, address, occupation, employer, and principal place of business of each person who contributed more than two hundred fifty dollars to the expenditure.

(3) Any person who fails to file a report of an independent expenditure with the commission shall pay to the commission a late filing fee of twenty-five dollars for each day the statement remains not filed in violation of this section, not to exceed seven hundred fifty dollars.

(4) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1976, LB 987, § 67; Laws 1977, LB 41, § 42; Laws 1996, LB 1263, § 3; Laws 1999, LB 416, § 13; Laws 2001, LB 242, § 6; Laws 2005, LB 242, § 18; Laws 2013, LB79, § 17; Laws 2014, LB946, § 30.

49-1469 Businesses and organizations; contributions, expenditures, or services; report; contents; separate segregated political fund; when required.

(1) A corporation, labor organization, industry, trade, or professional association, limited liability company, or limited liability partnership, which is organized under the laws of the State of Nebraska or doing business in this state and which is not a committee, may:

- (a) Make an expenditure;
- (b) Make a contribution; and
- (c) Provide personal services.

(2) Any such entity shall not be required to file reports of independent expenditures pursuant to section 49-1467, but if it makes a contribution or expenditure, or provides personal services, with a value of more than two hundred fifty dollars, it shall file a report with the commission within ten days after the end of the calendar month in which the contribution or expenditure is made or the personal services are provided. The report shall include:

(a) The nature, date, and value of the contribution or expenditure and the name of the candidate or committee or a description of the ballot question to or for which the contribution or expenditure was made; and

(b) A description of any personal services provided, the date the services were provided, and the name of the candidate or committee or a description of the ballot question to or for which the personal services were provided.

(3) Any entity specified in subsection (1) of this section may not receive contributions unless it establishes and administers a separate segregated politi-

cal fund which shall be utilized only in the manner set forth in sections 49-1469.05 and 49-1469.06.

Source: Laws 1976, LB 987, § 69; Laws 1977, LB 41, § 43; Laws 1980, LB 535, § 15; Laws 1983, LB 214, § 1; Laws 1988, LB 1136, § 4; Laws 1993, LB 587, § 17; Laws 1996, LB 1263, § 4; Laws 1999, LB 416, § 14; Laws 2005, LB 242, § 19; Laws 2013, LB79, § 18; Laws 2014, LB946, § 31.

49-1469.05 Businesses and organizations; separate segregated political fund; restrictions.

(1) An entity specified in subsection (1) of section 49-1469 which establishes and administers a separate segregated political fund:

(a) Shall not make an expenditure to such fund, except that it may make expenditures and provide personal services for the establishment and administration of such separate segregated political fund; and

(b) Shall file the reports required by subsection (2) of section 49-1469 with respect to the expenditures made or personal services provided for the establishment and administration of such fund but need not file such reports for the expenditures made from such fund.

(2) If a corporation makes an expenditure to a separate segregated political fund which is established and administered by an industry, trade, or professional association, limited liability company, or limited liability partnership of which such corporation is a member, such corporation shall not be required to file the reports required by subsection (2) of section 49-1469.

Source: Laws 2005, LB 242, § 20; Laws 2013, LB79, § 19.

49-1469.06 Businesses and organizations; separate segregated political fund; contributions and expenditures; limitations.

(1) All contributions to and expenditures from a separate segregated political fund shall be limited to money or anything of ascertainable value obtained through the voluntary contributions of the employees, officers, directors, stockholders, or members of the corporation, including a nonprofit corporation, labor organization, industry, trade, or professional association, limited liability company, or limited liability partnership, and the affiliates thereof, under which such fund was established.

(2) No contribution or expenditure shall be received or made from such fund if obtained or made by using or threatening to use job discrimination or financial reprisals.

(3) Only expenditures to candidates and committees and independent expenditures may be made from a fund established by an entity specified in subsection (1) of section 49-1469. Such separate segregated political fund may receive and disburse funds for the purpose of supporting or opposing candidates and committees in elections in states other than Nebraska and candidates for federal office and making independent expenditures in such elections if such receipts and disbursements are made in conformity with the solicitation provisions of this section and the entity which establishes and administers such fund complies with the laws of the jurisdiction in which such receipts or disbursements are made.

(4) The expenses for establishment and administration of a separate segregated political fund of any such entity may be paid from the separate segregated political fund of such entity.

Source: Laws 2005, LB 242, § 21; Laws 2013, LB79, § 20.

49-1469.07 Businesses and organizations; separate segregated political fund; status.

A separate segregated political fund is hereby declared to be an independent committee and subject to all of the provisions of the Nebraska Political Accountability and Disclosure Act applicable to independent committees, and the entity which establishes and administers such fund shall make the reports and filings required therefor.

Source: Laws 2005, LB 242, § 22; Laws 2013, LB79, § 21.

49-1469.08 Businesses and organizations; late filing fee; violation; penalty.

(1) Any entity specified in subsection (1) of section 49-1469 which fails to file a report with the commission required by section 49-1469 or 49-1469.07 shall pay to the commission a late filing fee of twenty-five dollars for each day the statement remains not filed in violation of such sections, not to exceed seven hundred fifty dollars.

(2) Any person who knowingly violates this section, section 49-1469, 49-1469.05, 49-1469.06, or 49-1469.07 shall be guilty of a Class III misdemeanor.

Source: Laws 2005, LB 242, § 23; Laws 2013, LB79, § 22.

49-1477 Contributions from persons other than committee; information required; violation; penalty.

No person shall receive a contribution from a person other than a committee unless, for purposes of the recipient person's record-keeping and reporting requirements, the contribution is accompanied by the name and address of each person who contributed more than one hundred dollars to the contribution. Any person violating the provisions of this section shall be guilty of a Class III misdemeanor.

Source: Laws 1976, LB 987, § 77; Laws 1977, LB 41, § 50; Laws 2013, LB79, § 23; Laws 2014, LB946, § 32.

49-1479.02 Major out-of-state contributor; report; contents; applicability; late filing fee.

(1) A major out-of-state contributor shall file with the commission an out-of-state contribution report. An out-of-state contribution report shall be filed on a form prescribed by the commission within ten days after the end of the calendar month in which a person becomes a major out-of-state contributor. For the remainder of the calendar year, a major out-of-state contributor shall file an out-of-state contribution report with the commission within ten days after the end of each calendar month in which the contributor makes a contribution or expenditure.

(2) An out-of-state contribution report shall disclose as to each contribution or expenditure not previously reported (a) the amount, nature, value, and date of the contribution or expenditure, (b) the name and address of the committee,

candidate, or person who received the contribution or expenditure, (c) the name and address of the person filing the report, and (d) the name, address, occupation, and employer of each person making a contribution of more than two hundred dollars in the calendar year to the person filing the report.

(3) This section shall not apply to (a) a person who files a report of a contribution or an expenditure pursuant to subsection (2) of section 49-1469, (b) a person required to file a report or campaign statement pursuant to section 49-1469.07, (c) a committee having a statement of organization on file with the commission, or (d) a person or committee registered with the Federal Election Commission.

(4) Any person who fails to file an out-of-state contribution report with the commission as required by this section shall pay to the commission a late filing fee of one hundred dollars for each of the first ten days the report remains not filed in violation of this section. After the tenth day, such person shall pay, for each day the report remains not filed, an additional late filing fee of one percent of the amount of the contributions or expenditures which were required to be reported, not to exceed ten percent of the amount of the contributions or expenditures which were required to be reported.

Source: Laws 1997, LB 49, § 7; Laws 1999, LB 416, § 15; R.S.1943, (2003), § 49-1469.04; Laws 2005, LB 242, § 29; Laws 2007, LB434, § 3; Laws 2013, LB79, § 24; Laws 2014, LB946, § 33.

(c) LOBBYING PRACTICES

49-1483 Lobbyist and principal; file separate statements; when; contents.

(1) Every lobbyist who is registered or required to be registered shall, for each of his or her principals, file electronically a separate statement for each calendar quarter with the Clerk of the Legislature within thirty days after the end of each calendar quarter. Every principal employing a lobbyist who is registered or required to be registered shall file electronically a separate statement for each calendar quarter with the Clerk of the Legislature within thirty days after the end of each calendar quarter.

(2) Each statement shall show the following:

(a) The total amount received or expended directly or indirectly for the purpose of carrying on lobbying activities, with the following categories of expenses each being separately itemized: (i) Miscellaneous expenses; (ii) entertainment, including expenses for food and drink as provided in subdivision (3)(a) of this section; (iii) lodging expenses; (iv) travel expenses; (v) lobbyist compensation, except that when a principal retains the services of a person who has only part-time lobbying duties, only the compensation paid which is reasonably attributable to influencing legislative action need be reported; (vi) lobbyist expense reimbursement; (vii) admissions to a state-owned facility or a state-sponsored industry or event as provided in subdivision (3)(a) of this section; and (viii) extraordinary office expenses directly related to the practice of lobbying;

(b) A detailed statement of any money which is loaned, promised, or paid by a lobbyist, a principal, or anyone acting on behalf of either to an official in the executive or legislative branch or member of such official's staff. The detailed statement shall identify the recipient and the amount and the terms of the loan, promise, or payment; and

(c) The total amount expended for gifts, other than admissions to a state-owned facility or a state-sponsored industry or event, as provided in subdivision (3)(a) of this section.

(3)(a) Each statement shall disclose the aggregate expenses for entertainment, admissions, and gifts for each of the following categories of elected officials: Members of the Legislature; and officials in the executive branch of the state. Such disclosures shall be in addition to the entertainment expenses reported under subdivision (2)(a)(ii) of this section, admissions reported under subdivision (2)(a)(vii) of this section, and gifts reported under subdivision (2)(c) of this section.

(b) For purposes of reporting aggregate expenses for entertainment for members of the Legislature and officials in the executive branch of the state as required by subdivision (3)(a) of this section, the reported amount shall include the actual amounts attributable to entertaining members of the Legislature and officials in the executive branch of the state. When the nature of an event at which members of the Legislature are entertained makes it impractical to determine the actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of members of the Legislature in attendance. When the nature of an event at which officials in the executive branch of the state are entertained makes it impractical to determine the actual cost, the cost of entertainment shall be the average cost per person multiplied by the number of officials in the executive branch of the state in attendance. For purposes of this subdivision, the average cost per person means the cost of the event divided by the number of persons expected to attend the event.

(4) The lobbyist shall also file any changes or corrections to the information set forth in the registration required pursuant to section 49-1480 so as to reflect the correctness of such information as of the end of each calendar quarter for which such statement is required by this section.

(5) If a lobbyist does not expect to receive lobbying receipts from or does not expect to make lobbying expenditures for a principal, the quarterly statements required by this section as to such principal need not be filed by the lobbyist if the principal and lobbyist both certify such facts electronically to the Clerk of the Legislature. A lobbyist exempt from filing quarterly statements pursuant to this section shall (a) file a statement of activity pursuant to section 49-1488 and (b) resume or commence filing quarterly statements with regard to such principal starting with the quarterly period the lobbyist receives lobbying receipts or makes lobbying expenditures for such principal.

(6) If a principal does not expect to receive lobbying receipts or does not expect to make lobbying expenditures, the quarterly statements required pursuant to this section need not be filed by the principal if the principal and lobbyist both certify such facts electronically to the Clerk of the Legislature. A principal exempt from filing quarterly statements pursuant to this section shall commence or resume filing quarterly statements starting with the quarterly period the principal receives lobbying receipts or makes lobbying expenditures.

(7) A principal shall report electronically the name and address of every person from whom it has received more than one hundred dollars in any one month for lobbying purposes.

(8) For purposes of sections 49-1480 to 49-1492.01, calendar quarter means the first day of January through the thirty-first day of March, the first day of April through the thirtieth day of June, the first day of July through the thirtieth

day of September, and the first day of October through the thirty-first day of December.

Source: Laws 1976, LB 987, § 83; Laws 1979, LB 162, § 4; Laws 1983, LB 479, § 2; Laws 1991, LB 232, § 4; Laws 1994, LB 872, § 4; Laws 1994, LB 1243, § 5; Laws 2000, LB 1021, § 5; Laws 2001, LB 242, § 8; Laws 2005, LB 242, § 33; Laws 2012, LB782, § 70.

49-1483.03 Lobbyist or principal; special report required; when; late filing fee.

(1) Any lobbyist or principal who receives or expends more than five thousand dollars for lobbying purposes during any calendar month in which the Legislature is in session shall, within fifteen days after the end of such calendar month, file electronically a special report disclosing for that calendar month all information required by section 49-1483. All information disclosed in a special report shall also be disclosed in the next quarterly report required to be filed. The requirement to file a special report shall not apply to a receipt or expenditure for lobbyist fees for lobbying services which have otherwise been disclosed in the lobbyist's application for registration.

(2) Any lobbyist who fails to file a special report required by this section with the Clerk of the Legislature or the commission shall pay to the commission a late filing fee of one hundred dollars for each of the first ten days the report remains not filed in violation of this section. After the tenth day, such lobbyist shall pay, for each day the report remains not filed, an additional late filing fee of one percent of the amount of the receipts and expenditures which were required to be reported, not to exceed ten percent of the amount of the receipts and expenditures which were required to be reported.

Source: Laws 1994, LB 872, § 5; Laws 1994, LB 1243, § 6; Laws 1996, LB 1263, § 6; Laws 1999, LB 416, § 17; Laws 2007, LB434, § 4; Laws 2012, LB782, § 71.

49-1488 Registered lobbyist; statement of activity during regular or special session; when filed.

Within forty-five days after the completion of every regular or special session of the Legislature, each registered lobbyist shall submit electronically to the Clerk of the Legislature a statement listing the legislation upon which the lobbyist acted, including identification by number of any bill or resolution and the position taken by the lobbyist.

Source: Laws 1976, LB 987, § 88; Laws 1991, LB 232, § 5; Laws 1994, LB 872, § 10; Laws 1994, LB 1243, § 11; Laws 2012, LB782, § 72.

49-1488.01 Statements; late filing fee; reduction or waiver; when.

(1) Every lobbyist who fails to file a quarterly statement or a statement of activity with the Clerk of the Legislature, pursuant to sections 49-1483 and 49-1488, shall pay to the commission a late filing fee of twenty-five dollars for each day any of such statements are not filed in violation of such sections, but not to exceed seven hundred fifty dollars per statement.

(2) A lobbyist required to pay a late filing fee pursuant to subsection (1) of this section may apply to the commission for relief. The commission by order

may reduce the amount of the late filing fee imposed upon such lobbyist if he or she shows the commission that (a) the circumstances indicate no intent to file late, (b) the lobbyist has not been required to pay a late filing fee for two years prior to the time the filing of the statement was due, (c) the late filing of the statement shows that less than five thousand dollars was raised, received, or expended during the reporting period, and (d) a reduction of the late fee would not frustrate the purposes of the Nebraska Political Accountability and Disclosure Act.

(3) A lobbyist required to pay a late filing fee pursuant to subsection (1) of this section who qualifies for an exemption to the filing of quarterly statements pursuant to subsection (5) of section 49-1483 may apply to the commission for relief. The commission by order may reduce or waive the late filing fee and the person shall not be required to make a showing as provided by subsection (2) of this section.

Source: Laws 1991, LB 232, § 7; Laws 1994, LB 872, § 11; Laws 1994, LB 1243, § 12; Laws 1998, LB 632, § 6; Laws 1999, LB 416, § 18; Laws 2005, LB 242, § 35; Laws 2013, LB79, § 25; Laws 2014, LB946, § 34.

49-1492.01 Agency, political subdivision, or publicly funded postsecondary educational institution; gifts; reporting requirements; violations; penalty.

(1) Any agency, political subdivision, or publicly funded postsecondary educational institution which gives a gift of an admission to a state-owned facility or a state-sponsored industry or event to a public official, a member of a public official's staff, or a member of the immediate family of a public official shall report the gift on a form prescribed by the commission.

(2) The report shall be filed electronically with the Clerk of the Legislature within fifteen days after the end of the calendar quarter in which the gift is given. The report shall include the following:

(a) The identity of the agency, political subdivision, or publicly funded postsecondary educational institution;

(b) A description of the gift;

(c) The value of the gift; and

(d) The name of the recipient of the gift and the following:

(i) If the recipient is an official in the executive or legislative branch of state government, the office held by the official and the branch he or she serves;

(ii) If the recipient is a member of an official's staff in the executive or legislative branch of state government, his or her job title and the name of the official; or

(iii) If the recipient is a member of the immediate family of an official in the executive or legislative branch of state government, his or her relationship to the official and the name of the official.

(3) For purposes of this section, public official does not include an elected or appointed official of a political subdivision or school board.

(4) Any person who knowingly and intentionally violates this section shall be guilty of a Class III misdemeanor.

Source: Laws 2000, LB 1021, § 7; Laws 2012, LB782, § 73.

(d) CONFLICTS OF INTEREST

49-1493 Individuals required to file a statement of financial interests.

The individuals listed in subdivisions (1) through (13) of this section shall file with the commission a statement of financial interests as provided in sections 49-1496 and 49-1497 for the preceding calendar year on or before March 1 of each year in which such individual holds such a position. An individual who leaves office shall, within thirty days after leaving office, file a statement covering the period since the previous statement was filed. Disclosure of the interest named in sections 49-1496 to 49-1498 shall be made by:

(1) An individual holding a state executive office as provided in Article IV of the Constitution of Nebraska, including the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, Tax Commissioner, and heads of such other executive departments as set forth in the Constitution or as may be established by law;

(2) An individual holding the office of Commissioner of Education, member of the State Board of Education, member of the Board of Regents of the University of Nebraska with the exception of student members, or member of the Coordinating Commission for Postsecondary Education;

(3) A member of the Board of Parole;

(4) A member of the Public Service Commission;

(5) A member of the Legislature;

(6) A member of the board of directors or an officer of a district organized under the provisions of Chapter 70;

(7) A member of any board or commission of the state or any county which examines or licenses a business or which determines rates for or otherwise regulates a business;

(8) A member of a land-use planning commission, zoning commission, or authority of the state or any county with a population of more than one hundred thousand inhabitants;

(9) An elected official of a city of the primary or metropolitan class;

(10) An elected county official;

(11) A member of the Nebraska Environmental Trust Board;

(12) An individual employed at the University of Nebraska-Lincoln in the position of Head Football Coach, Men's Basketball Coach, or Women's Basketball Coach; and

(13) An official or employee of the state designated by rules and regulations of the commission who is responsible for taking or recommending official action of a nonministerial nature with regard to:

(a) Contracting or procurement;

(b) Administering or monitoring grants or subsidies;

(c) Land-use planning or zoning;

(d) Inspecting, licensing, regulating, or auditing any person; or

(e) Any similar action.

Source: Laws 1976, LB 987, § 93; Laws 1983, LB 214, § 2; Laws 1991, LB 663, § 35; Laws 1999, LB 417, § 1; Laws 2001, LB 242, § 9; Laws 2002, LB 1003, § 35; Laws 2016, LB400, § 1.

49-1494 Candidates for elective office; statement of financial interest; filing; time; supplementary statements; failure to file; effect.

(1) An individual who files to appear on the ballot for election to an elective office specified in section 49-1493 shall file a statement of financial interests for the preceding calendar year with the commission as provided in this section.

(2) Candidates for the elective offices specified in section 49-1493 who qualify other than by filing shall file a statement for the preceding calendar year with the commission within five days after becoming a candidate or being appointed to that elective office.

(3) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall file supplementary statements, covering the preceding calendar year, with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such supplementary statements on or before the filing deadline for the elective office.

(4) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election during the calendar year in which the election is held, the candidate shall file a statement of financial interests for the preceding calendar year with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such statement on or before the filing deadline for the elective office.

(5) A candidate for an elective office specified in section 49-1493 who fails to file a statement of financial interests as required in subsection (1) or (2) of this section within five days after the deadline in subsection (3) or (4) of this section and section 49-1493 shall not appear on the ballot.

(6) A statement of financial interests shall be preserved for a period of not less than five years by the commission.

Source: Laws 1976, LB 987, § 94; Laws 1983, LB 479, § 3; Laws 2001, LB 242, § 10; Laws 2005, LB 242, § 36; Laws 2016, LB400, § 2; Laws 2017, LB451, § 15.

49-1497 Financial institution, defined; irrevocable trust; how treated.

(1) For purposes of section 49-1496, financial institution means:

- (a) A bank or banking corporation as defined in section 8-101.03;
- (b) A federal bank or branch bank;
- (c) An insurance company providing a loan on an insurance policy;
- (d) A small loan company;
- (e) A state or federal savings and loan association or credit union; or
- (f) The federal government or any political subdivision thereof.

(2) The res or the income of an irrevocable trust of a member of the individual's immediate family is not required to be reported pursuant to section 49-1496.

Source: Laws 1976, LB 987, § 97; Laws 2005, LB 242, § 38; Laws 2017, LB140, § 158.

49-14,102 Contracts with government bodies; procedure; powers of certain cities; purpose.

(1) Except as otherwise provided by law, no public official or public employee, a member of that individual's immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.

(2) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.

(3) No contract may be divided for the purpose of evading the requirements of this section.

(4) This section shall not apply to a contract when the public official or public employee does not in any way represent either party in the transaction.

(5) Notwithstanding any other provision of this section, any city of the metropolitan, primary, or first class may prohibit contracts over a specific dollar amount in which a public official or a public employee of such city may have an interest.

(6) This section prohibits public officials and public employees from engaging in certain activities under circumstances creating a substantial conflict of interest. This section is not intended to penalize innocent persons, and a contract shall not be absolutely void by reason of this section.

(7) This section does not apply to contracts covered by sections 49-14,103.01 to 49-14,103.06.

Source: Laws 1976, LB 987, § 102; Laws 2005, LB 242, § 46; Laws 2014, LB364, § 1.

(e) NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**49-14,120 Commission; members; expenses.**

All members of the commission shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source: Laws 1976, LB 987, § 120; Laws 1981, LB 204, § 88; Laws 2005, LB 242, § 55; Laws 2011, LB292, § 1.

49-14,122 Commission; field investigations and audits; purpose.

The commission shall make random field investigations and audits with respect to campaign statements and activity reports filed with the commission under the Nebraska Political Accountability and Disclosure Act. Any audit or investigation conducted of a candidate's campaign statements during a campaign shall include an audit or investigation of the statements of his or her opponent or opponents as well. The commission may also carry out field investigations or audits with respect to any campaign statement, registration, report, or other statement filed under the act if the commission or the executive director deems such investigations or audits necessary to carry out the purposes of the act.

Source: Laws 1976, LB 987, § 122; Laws 1993, LB 587, § 18; Laws 2013, LB79, § 26.

49-14,123 Commission; duties.

In addition to any other duties prescribed by law, the commission shall:

(1) Adopt and promulgate rules and regulations to carry out the Nebraska Political Accountability and Disclosure Act pursuant to the Administrative Procedure Act;

(2) Prescribe forms for statements and reports required to be filed pursuant to the Nebraska Political Accountability and Disclosure Act and furnish such forms to persons required to file such statements and reports;

(3) Prepare and publish one or more manuals explaining the duties of all persons and other entities required to file statements and reports by the act and setting forth recommended uniform methods of accounting and reporting for such filings;

(4) Accept and file any reasonable amount of information voluntarily supplied that exceeds the requirements of the act;

(5) Make statements and reports filed with the commission available for public inspection and copying during regular office hours and make copying facilities available at a cost of not more than fifty cents per page;

(6) Compile and maintain an index of all reports and statements filed with the commission to facilitate public access to such reports and statements;

(7) Prepare and publish summaries of statements and reports filed with the commission and special reports and technical studies to further the purposes of the act;

(8) Review all statements and reports filed with the commission in order to ascertain whether any person has failed to file a required statement or has filed a deficient statement;

(9) Preserve statements and reports filed with the commission for a period of not less than five years from the date of receipt;

(10) Issue and publish advisory opinions on the requirements of the act upon the request of a person or government body directly covered or affected by the act. Any such opinion rendered by the commission, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person or government body who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person or government body in the request for the opinion;

(11) Act as the primary civil enforcement agency for violations of the Nebraska Political Accountability and Disclosure Act and the rules or regulations adopted and promulgated thereunder;

(12) Receive all late filing fees, civil penalties, and interest imposed pursuant to the Nebraska Political Accountability and Disclosure Act and remit all such funds to the State Treasurer for credit to the Nebraska Accountability and Disclosure Commission Cash Fund;

(13) Provide current information or a list of persons owing civil penalties and interest to filing officers to determine compliance with subsection (4) of section 32-602. The commission shall provide the current information or list to each filing officer on December 1 prior to a statewide primary election, shall continuously update the information or list through March 1 prior to the statewide primary election, and shall update such information or list at other times upon request of a filing officer; and

(14) Prepare and distribute to the appropriate local officials statements of financial interest, campaign committee organization forms, filing instructions and forms, and such other forms as the commission may deem appropriate.

Source: Laws 1976, LB 987, § 123; Laws 1981, LB 134, § 9; Laws 1981, LB 545, § 13; Laws 1983, LB 479, § 5; Laws 1992, LB 556, § 12; Laws 1994, LB 872, § 12; Laws 1994, LB 1243, § 14; Laws 1997, LB 420, § 20; Laws 1997, LB 758, § 3; Laws 2000, LB 438, § 10; Laws 2005, LB 242, § 56; Laws 2007, LB464, § 3; Laws 2013, LB79, § 27; Laws 2017, LB85, § 5.

Cross References

Administrative Procedure Act, see section 84-920.

49-14,124 Alleged violation; preliminary investigation by commission; powers; notice.

(1) The commission shall, by way of preliminary investigation, investigate any alleged violation of the Nebraska Political Accountability and Disclosure Act, or any rule or regulation adopted and promulgated thereunder, upon:

(a) The receipt of a complaint signed under oath which contains at least a reasonable belief that a violation has occurred;

(b) The recommendation of the executive director; or

(c) The commission's own motion.

(2) For purposes of conducting preliminary investigations under the Nebraska Political Accountability and Disclosure Act, the commission shall have the powers possessed by the courts of this state to issue subpoenas, and the district court shall have jurisdiction to enforce such subpoenas.

(3) The executive director shall notify any person under investigation by the commission of the investigation and of the nature of the alleged violation within five days after the commencement of the investigation.

(4) Within fifteen days after the filing of a sworn complaint by a person alleging a violation, and every thirty days thereafter until the matter is terminated, the executive director shall notify the complainant and the alleged violator of the action taken to date by the commission together with the reasons for such action or for nonaction.

(5) Each governing body shall cooperate with the commission in the conduct of its investigations.

Source: Laws 1976, LB 987, § 124; Laws 1997, LB 49, § 10; Laws 1997, LB 420, § 21; Laws 1999, LB 578, § 1; Laws 2005, LB 242, § 57; Laws 2006, LB 188, § 16; Laws 2013, LB79, § 28.

49-14,124.01 Preliminary investigation; confidential; exception.

All commission proceedings and records relating to preliminary investigations shall be confidential until a final determination is made by the commission unless the person alleged to be in violation of the Nebraska Political Accountability and Disclosure Act requests that the proceedings be public. If the commission determines that there was no violation of the act or any rule or regulation adopted and promulgated under the act, the records and actions relative to the investigation and determination shall remain confidential unless the alleged violator requests that the records and actions be made public. If the

commission determines that there was a violation, the records and actions shall be made public as soon as practicable after the determination is made.

Source: Laws 2005, LB 242, § 58; Laws 2013, LB79, § 29.

49-14,124.02 Commission; possible criminal violation; referral to Attorney General; duties of Attorney General.

At any time after the commencement of a preliminary investigation, the commission may refer the matter of a possible criminal violation of the Nebraska Political Accountability and Disclosure Act to the Attorney General for consideration of criminal prosecution. The fact of the referral shall not be subject to the confidentiality provisions of section 49-14,124.01. The Attorney General shall determine if a matter referred by the commission will be criminally prosecuted. If the Attorney General determines that a matter will be criminally prosecuted, he or she shall advise the commission in writing of the determination. If the Attorney General determines that a matter will not be criminally prosecuted, he or she shall advise the commission in writing of the determination. The fact of the declination to criminally prosecute shall not be subject to the confidentiality provisions of section 49-14,124.01.

Source: Laws 2007, LB464, § 4; Laws 2013, LB79, § 30.

49-14,125 Preliminary investigation; terminated, when; violation; effect; powers of commission; subsequent proceedings; records.

(1) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is no probable cause for belief that a person has violated the Nebraska Political Accountability and Disclosure Act or any rule or regulation adopted and promulgated thereunder or if the commission determines that there is insufficient evidence to reasonably believe that the person could be found to have violated the act, the commission shall terminate the investigation and so notify the complainant and the person who had been under investigation.

(2) If, after a preliminary investigation, it is determined by a majority vote of the commission that there is probable cause for belief that the Nebraska Political Accountability and Disclosure Act or a rule or regulation adopted and promulgated thereunder has been violated and if the commission determines that there is sufficient evidence to reasonably believe that the person could be found to have violated the act, the commission shall initiate appropriate proceedings to determine whether there has in fact been a violation. The commission may appoint a hearing officer to preside over the proceedings.

(3) All proceedings of the commission pursuant to this section shall be by closed session attended only by those persons necessary to the investigation of the alleged violation, unless the person alleged to be in violation of the act or any rule or regulation adopted and promulgated thereunder requests an open session.

(4) The commission shall have the powers possessed by the courts of this state to issue subpoenas in connection with proceedings under this section, and the district court shall have jurisdiction to enforce such subpoenas.

(5) All testimony shall be under oath which shall be administered by a member of the commission, the hearing officer, or any other person authorized by law to administer oaths and affirmations.

(6) Any person who appears before the commission shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state.

(7) All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the district court.

(8) Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby shall be notified and may appear personally before the commission on that person's own behalf or file a written statement for incorporation into the record of the proceeding.

(9) The commission shall cause a record to be made of all proceedings pursuant to this section.

(10) At the conclusion of proceedings concerning an alleged violation, the commission shall deliberate on the evidence and determine whether there has been a violation of the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1976, LB 987, § 125; Laws 1981, LB 134, § 10; Laws 1997, LB 420, § 22; Laws 1999, LB 578, § 2; Laws 2005, LB 242, § 59; Laws 2006, LB 188, § 17; Laws 2013, LB79, § 31.

49-14,126 Commission; violation; orders; civil penalty; costs of hearing.

The commission, upon finding that there has been a violation of the Nebraska Political Accountability and Disclosure Act or any rule or regulation promulgated thereunder, may issue an order requiring the violator to do one or more of the following:

(1) Cease and desist from the violation;

(2) File any report, statement, or other information as required;

(3) Pay a civil penalty of not more than two thousand dollars for each violation of the act, rule, or regulation; or

(4) Pay the costs of the hearing in a contested case if the violator did not appear at the hearing personally or by counsel.

Source: Laws 1976, LB 987, § 126; Laws 1981, LB 134, § 11; Laws 1997, LB 420, § 23; Laws 1999, LB 416, § 19; Laws 2006, LB 188, § 18; Laws 2007, LB464, § 5; Laws 2011, LB176, § 1; Laws 2013, LB79, § 32.

49-14,129 Commission; suspend or modify reporting requirements; conditions.

The commission, by order, may suspend or modify any of the reporting requirements of the Nebraska Political Accountability and Disclosure Act, in a particular case, for good cause shown, or if it finds that literal application of the act works a manifestly unreasonable hardship and if it also finds that such suspension or modification will not frustrate the purposes of the act. Any such suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required by this section.

Source: Laws 1976, LB 987, § 129; Laws 1980, LB 535, § 19; Laws 1993, LB 587, § 19; Laws 2013, LB79, § 33.

49-14,132 Filings; limitation of use.

Information copied from campaign statements, registration forms, activity reports, statements of financial interest, and other filings required by the Nebraska Political Accountability and Disclosure Act shall not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, except that (1) the name and address of any political committee or entity specified in subsection (1) of section 49-1469 may be used for soliciting contributions from such committee or entity and (2) the use of information copied or otherwise obtained from statements, forms, reports, and other filings required by the act in newspapers, magazines, books, or other similar communications is permissible as long as the principal purpose of using such information is not to communicate any contributor information listed thereon for the purpose of soliciting contributions or for other commercial purposes.

Source: Laws 1976, LB 987, § 132; Laws 1981, LB 134, § 12; Laws 2005, LB 242, § 61; Laws 2013, LB79, § 34.

49-14,133 Criminal prosecution; Attorney General; concurrent jurisdiction with county attorney.

The Attorney General has jurisdiction to enforce the criminal provisions of the Nebraska Political Accountability and Disclosure Act. The county attorney of the county in which a violation of the act occurs shall have concurrent jurisdiction.

Source: Laws 1976, LB 987, § 133; Laws 1981, LB 134, § 13; Laws 1997, LB 758, § 4; Laws 2007, LB464, § 6; Laws 2013, LB79, § 35.

49-14,140 Nebraska Accountability and Disclosure Commission Cash Fund; created; use; investment.

The Nebraska Accountability and Disclosure Commission Cash Fund is hereby created. The fund shall consist of funds received by the commission pursuant to sections 49-1449.01, 49-1470, 49-1480.01, 49-1482, 49-14,123, and 49-14,123.01 and subdivision (4) of section 49-14,126. The fund shall be used by the commission in administering the Nebraska Political Accountability and Disclosure Act. Any money in the Nebraska Accountability and Disclosure Commission Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

On April 25, 2013, the State Treasurer shall transfer \$630,870 from the Campaign Finance Limitation Cash Fund to the Nebraska Accountability and Disclosure Commission Cash Fund to be used for development, implementation, and maintenance of an electronic filing system for campaign statements and other reports under the Nebraska Political Accountability and Disclosure Act and for making such statements and reports available to the public on the web site of the commission. The State Treasurer shall transfer the balance of the Campaign Finance Limitation Cash Fund to the Election Administration Fund on or before July 5, 2013, or as soon thereafter as administratively possible.

Source: Laws 1989, LB 815, § 4; Laws 1994, LB 872, § 13; Laws 1994, LB 1066, § 40; Laws 1994, LB 1243, § 15; Laws 2007, LB527,

§ 5; Laws 2009, First Spec. Sess., LB3, § 25; Laws 2011, LB176, § 2; Laws 2013, LB79, § 36; Laws 2018, LB945, § 12.
Effective date April 5, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

(f) DIGITAL AND ELECTRONIC FILING

49-14,141 Electronic filing system; campaign statements and reports; availability; procedures for filings.

(1) The commission shall develop, implement, and maintain an electronic filing system for campaign statements and other reports required to be filed with the commission under the Nebraska Political Accountability and Disclosure Act and shall provide for such statements and reports to be made available to the public on its web site as soon as practicable.

(2) The commission may adopt procedures for the digital and electronic filing of any report or statement with the commission as required by the act. Any procedures for digital filing shall comply with the provisions of section 86-611. The commission may adopt authentication procedures to be used as a verification process for statements or reports filed digitally or electronically. Compliance with authentication procedures adopted by the commission shall have the same validity as a signature on any report, statement, or verification statement.

Source: Laws 1999, LB 581, § 3; Laws 2002, LB 1105, § 438; Laws 2013, LB79, § 37.

(g) PAYMENT OF CIVIL PENALTIES

49-14,142 Payment of civil penalty.

No person shall be appointed to any elective or appointive office specified in section 49-1493 until he or she has first paid any outstanding civil penalties and interest imposed pursuant to the Nebraska Political Accountability and Disclosure Act.

Source: Laws 2017, LB85, § 4.

ARTICLE 15

NEBRASKA SHORT FORM ACT

Section

- 49-1501. Repealed. Laws 2012, LB 1113, § 50.
- 49-1502. Repealed. Laws 2012, LB 1113, § 50.
- 49-1503. Repealed. Laws 2012, LB 1113, § 50.
- 49-1504. Repealed. Laws 2012, LB 1113, § 50.
- 49-1505. Repealed. Laws 2012, LB 1113, § 50.
- 49-1506. Repealed. Laws 2012, LB 1113, § 50.
- 49-1507. Repealed. Laws 2012, LB 1113, § 50.
- 49-1508. Repealed. Laws 2012, LB 1113, § 50.
- 49-1509. Repealed. Laws 2012, LB 1113, § 50.
- 49-1510. Repealed. Laws 2012, LB 1113, § 50.
- 49-1511. Repealed. Laws 2012, LB 1113, § 50.
- 49-1512. Repealed. Laws 2012, LB 1113, § 50.
- 49-1513. Repealed. Laws 2012, LB 1113, § 50.
- 49-1514. Repealed. Laws 2012, LB 1113, § 50.

Section

- 49-1515. Repealed. Laws 2012, LB 1113, § 50.
- 49-1516. Repealed. Laws 2012, LB 1113, § 50.
- 49-1517. Repealed. Laws 2012, LB 1113, § 50.
- 49-1518. Repealed. Laws 2012, LB 1113, § 50.
- 49-1519. Repealed. Laws 2012, LB 1113, § 50.
- 49-1520. Repealed. Laws 2012, LB 1113, § 50.
- 49-1521. Repealed. Laws 2012, LB 1113, § 50.
- 49-1522. Repealed. Laws 2012, LB 1113, § 50.
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- 49-1524. Repealed. Laws 2012, LB 1113, § 50.
- 49-1525. Repealed. Laws 2012, LB 1113, § 50.
- 49-1526. Repealed. Laws 2012, LB 1113, § 50.
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- 49-1528. Repealed. Laws 2012, LB 1113, § 50.
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- 49-1530. Repealed. Laws 2012, LB 1113, § 50.
- 49-1531. Repealed. Laws 2012, LB 1113, § 50.
- 49-1532. Repealed. Laws 2012, LB 1113, § 50.
- 49-1533. Repealed. Laws 2012, LB 1113, § 50.
- 49-1534. Repealed. Laws 2012, LB 1113, § 50.
- 49-1535. Repealed. Laws 2012, LB 1113, § 50.
- 49-1536. Repealed. Laws 2012, LB 1113, § 50.
- 49-1537. Repealed. Laws 2012, LB 1113, § 50.
- 49-1538. Repealed. Laws 2012, LB 1113, § 50.
- 49-1539. Repealed. Laws 2012, LB 1113, § 50.
- 49-1540. Repealed. Laws 2012, LB 1113, § 50.
- 49-1541. Repealed. Laws 2012, LB 1113, § 50.
- 49-1542. Repealed. Laws 2012, LB 1113, § 50.
- 49-1543. Repealed. Laws 2012, LB 1113, § 50.
- 49-1544. Repealed. Laws 2012, LB 1113, § 50.
- 49-1545. Repealed. Laws 2012, LB 1113, § 50.
- 49-1546. Repealed. Laws 2012, LB 1113, § 50.
- 49-1547. Repealed. Laws 2012, LB 1113, § 50.
- 49-1548. Repealed. Laws 2012, LB 1113, § 50.
- 49-1549. Repealed. Laws 2012, LB 1113, § 50.
- 49-1550. Repealed. Laws 2012, LB 1113, § 50.
- 49-1551. Repealed. Laws 2012, LB 1113, § 50.
- 49-1552. Repealed. Laws 2012, LB 1113, § 50.
- 49-1553. Repealed. Laws 2012, LB 1113, § 50.
- 49-1554. Repealed. Laws 2012, LB 1113, § 50.
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- 49-1560. Repealed. Laws 2012, LB 1113, § 50.
- 49-1561. Repealed. Laws 2012, LB 1113, § 50.
- 49-1562. Repealed. Laws 2012, LB 1113, § 50.

49-1501 Repealed. Laws 2012, LB 1113, § 50.

49-1502 Repealed. Laws 2012, LB 1113, § 50.

49-1503 Repealed. Laws 2012, LB 1113, § 50.

49-1504 Repealed. Laws 2012, LB 1113, § 50.

49-1505 Repealed. Laws 2012, LB 1113, § 50.

49-1506 Repealed. Laws 2012, LB 1113, § 50.

- 49-1507 Repealed. Laws 2012, LB 1113, § 50.
- 49-1508 Repealed. Laws 2012, LB 1113, § 50.
- 49-1509 Repealed. Laws 2012, LB 1113, § 50.
- 49-1510 Repealed. Laws 2012, LB 1113, § 50.
- 49-1511 Repealed. Laws 2012, LB 1113, § 50.
- 49-1512 Repealed. Laws 2012, LB 1113, § 50.
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- 49-1514 Repealed. Laws 2012, LB 1113, § 50.
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- 49-1538 Repealed. Laws 2012, LB 1113, § 50.
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- 49-1551 Repealed. Laws 2012, LB 1113, § 50.
- 49-1552 Repealed. Laws 2012, LB 1113, § 50.
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- 49-1554 Repealed. Laws 2012, LB 1113, § 50.
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- 49-1556 Repealed. Laws 2012, LB 1113, § 50.
- 49-1557 Repealed. Laws 2012, LB 1113, § 50.
- 49-1558 Repealed. Laws 2012, LB 1113, § 50.
- 49-1559 Repealed. Laws 2012, LB 1113, § 50.
- 49-1560 Repealed. Laws 2012, LB 1113, § 50.
- 49-1561 Repealed. Laws 2012, LB 1113, § 50.
- 49-1562 Repealed. Laws 2012, LB 1113, § 50.

ARTICLE 17

CONSTITUTION OF NEBRASKA

Section

49-1701. Constitution of Nebraska; Revisor of Statutes; duties; Secretary of State; review; Clerk of the Legislature; duties.

49-1701 Constitution of Nebraska; Revisor of Statutes; duties; Secretary of State; review; Clerk of the Legislature; duties.

(1) Except as provided in subsection (6) of this section, following each regular session of the Legislature, the Revisor of Statutes shall compile an updated

copy of the Constitution of Nebraska, showing all sections as they exist at that time and including notes after the end of each section as follows:

(a) For each section, the Revisor of Statutes shall provide a note referencing the source of such section and any amendments thereto;

(b) If a section is declared unconstitutional or inoperative, in whole or in part, by the final judgment of a federal court or the Nebraska Supreme Court, the Revisor of Statutes shall provide a note to that effect. The Attorney General shall assist the Revisor of Statutes in complying with this subdivision by promptly notifying the Revisor of Statutes when any section is declared unconstitutional or inoperative; and

(c) For any section, the Revisor of Statutes may provide additional notes at his or her discretion.

(2) The Revisor of Statutes shall, within two days after the Legislature has adjourned sine die, transmit the updated copy of the Constitution of Nebraska as compiled under subsection (1) of this section to the Secretary of State for his or her review to determine whether the updated copy accurately reflects the text of the Constitution of Nebraska as it exists at that time. If the Secretary of State determines that any changes are necessary, he or she shall, within five days after receipt of the updated copy, notify the Revisor of Statutes of the changes. The Revisor of Statutes shall make such changes and then promptly return the updated copy to the Secretary of State for further review. If the Secretary of State determines that no changes are necessary or that all necessary changes have been made by the Revisor of Statutes, the Secretary of State shall certify the updated copy as an accurate reflection of the text of the Constitution of Nebraska as it exists at that time. The Secretary of State shall then transmit the certified copy to the Clerk of the Legislature for distribution no later than ten days after the Legislature has adjourned sine die.

(3) After receiving the certified copy of the Constitution of Nebraska from the Secretary of State pursuant to subsection (2) of this section, the Clerk of the Legislature shall:

(a) Make the certified copy available in electronic form on the Legislature's web site;

(b) Include the certified copy in the session laws compiled and published pursuant to section 49-501.01; and

(c) Print pamphlets of the certified copy for distribution to the public upon request.

(4) The certified copies printed by the Clerk of the Legislature pursuant to subdivisions (3)(b) and (3)(c) of this section shall constitute the official version of the Constitution of Nebraska and may be cited as prima facie evidence of the law in all courts of this state.

(5) The Secretary of State shall maintain in his or her office a copy of every edition of the Constitution of Nebraska certified pursuant to this section.

(6) Following any regular session of the Legislature, if the Revisor of Statutes determines that there have been no changes to the text of the Constitution of Nebraska and no changes to the notes required by subsection (1) of this section, the Revisor of Statutes may decide not to compile an updated copy of the Constitution of Nebraska for that year. If the Revisor of Statutes decides not to compile an updated copy for the year, he or she shall notify the Secretary of State and the Clerk of the Legislature of such fact and the Clerk of the

Legislature shall continue to use the most recent year's certified copy for purposes of subsection (3) of this section.

Source: Laws 2016, LB686, § 1.

ARTICLE 18

UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

Section

- 49-1801. Act, how cited.
- 49-1802. Definitions.
- 49-1803. Applicability.
- 49-1804. Validity of unsworn declaration.
- 49-1805. Required medium.
- 49-1806. Form of unsworn declaration.
- 49-1807. Relation to Electronic Signatures in Global and National Commerce Act.

49-1801 Act, how cited.

Sections 49-1801 to 49-1807 shall be known and may be cited as the Uniform Unsworn Foreign Declarations Act.

Source: Laws 2017, LB57, § 3.

49-1802 Definitions.

In the Uniform Unsworn Foreign Declarations Act:

(1) Boundaries of the United States means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(2) Law includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation, or order.

(3) Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(4) Sign means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(5) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(6) Sworn declaration means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(7) Unsworn declaration means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Source: Laws 2017, LB57, § 4.

49-1803 Applicability.

The Uniform Unsworn Foreign Declarations Act applies to an unsworn declaration by a declarant who at the time of making the declaration is

15 U.S.C. 7001 et seq., as the act existed on January 1, 2017, but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Source: Laws 2017, LB57, § 9.

CHAPTER 50

LEGISLATURE

Article.

1. General Provisions. 50-114.03.
3. Next Generation Business Growth Act. 50-301 to 50-306.
4. Legislative Council. 50-401.01 to 50-444.
5. Bioscience Steering Committee. 50-501 to 50-508.
6. Whiteclay Public Health Emergency Task Force. 50-601 to 50-603.
11. Legislative Districts. 50-1101 to 50-1154.
12. Legislative Performance Audit Act. 50-1202 to 50-1215.
13. Review of Boards and Commissions. 50-1302.
15. Legislative Qualifications and Election Contests Act. 50-1501 to 50-1520.

ARTICLE 1

GENERAL PROVISIONS

Section

50-114.03. Clerk; reports; list; distribution; establish requirements for reports.

50-114.03 Clerk; reports; list; distribution; establish requirements for reports.

(1) The Clerk of the Legislature shall periodically prepare and distribute electronically to all members of the Legislature a list of all reports received from state agencies, boards, and commissions. Such lists shall be prepared and distributed to each legislator no less frequently than once during the first ten days of each legislative session. Upon request by a legislator, the clerk shall arrange for any legislator to receive an electronic copy of any such report.

(2) A state agency, board, or commission or other public entity which is required to provide a report to the Legislature shall submit the report electronically. The Clerk of the Legislature may establish requirements for the electronic submission, distribution, and format of such reports. The clerk may accept a report in written form only upon a showing of good cause.

Source: Laws 1979, LB 322, § 79; Laws 2003, LB 114, § 1; Laws 2012, LB719, § 2; Laws 2012, LB782, § 74.

ARTICLE 3

NEXT GENERATION BUSINESS GROWTH ACT

Section

- 50-301. Act, how cited.
- 50-302. Legislative findings and intent.
- 50-303. Legislature's Venture Development and Innovation Task Force; created; members; plan; preparation and submission.
- 50-304. Employment of nonprofit organization.
- 50-305. Appropriation intent.
- 50-306. Act, termination.

50-301 Act, how cited.

Sections 50-301 to 50-306 shall be known and may be cited as the Next Generation Business Growth Act.

Source: Laws 2016, LB1083, § 1.
Termination date January 1, 2017.

50-302 Legislative findings and intent.

The Legislature finds that there is an important role that innovation and entrepreneurship play in the economic well-being of the state. It is the intent of the Legislature to promote such innovation and entrepreneurship through the Next Generation Business Growth Act.

Source: Laws 2016, LB1083, § 2.
Termination date January 1, 2017.

50-303 Legislature's Venture Development and Innovation Task Force; created; members; plan; preparation and submission.

(1) The Legislature's Venture Development and Innovation Task Force is created. The Executive Board of the Legislative Council shall appoint six members of the Legislature to the task force. The Executive Board shall appoint one of the six members as chairperson and another member as vice-chairperson.

(2) The task force shall develop a statewide strategic plan to cultivate a climate of entrepreneurship and innovation. The task force shall adopt policy criteria to be used in the development of the plan. The plan shall include: (a) An inventory of existing state-sponsored and locally sponsored programs and resources that are targeted to small businesses, microenterprises, and entrepreneurial endeavors in the state; (b) an economic impact analysis of the existing programs under the Business Innovation Act; (c) an overview of best practices from other states; (d) a review of previously issued statewide strategic plans focused on high-growth businesses; and (e) various policy options.

(3) On or before December 1, 2016, the Legislature's Venture Development and Innovation Task Force shall prepare and electronically submit the statewide strategic plan to the Clerk of the Legislature.

Source: Laws 2016, LB1083, § 3.
Termination date January 1, 2017.

Cross References

Business Innovation Act, see section 81-12,152.

50-304 Employment of nonprofit organization.

The Legislature's Venture Development and Innovation Task Force, in consultation with the Executive Board of the Legislative Council, shall employ a nonprofit organization to provide research, analysis, and recommendations for the development of the statewide strategic plan required by section 50-303.

Source: Laws 2016, LB1083, § 4.
Termination date January 1, 2017.

50-305 Appropriation intent.

It is the intent of the Legislature to appropriate seventy-five thousand dollars from the General Fund to the Legislative Council for carrying out the purposes of the Next Generation Business Growth Act.

Source: Laws 2016, LB1083, § 5.
Termination date January 1, 2017.

50-306 Act, termination.

The Next Generation Business Growth Act terminates on January 1, 2017.

Source: Laws 2016, LB1083, § 6.
Termination date January 1, 2017.

ARTICLE 4
LEGISLATIVE COUNCIL

Section

- 50-401.01. Legislative Council; executive board; members; selection; powers and duties.
- 50-405. Legislative Council; duties; investigations; studies.
- 50-406. Legislative Council; committees; public hearings; oaths; subpoenas; books and records; examination; litigation; appeal.
- 50-407. Legislative Council; committees; subpoenas; enforcement; refusal to testify.
- 50-413. Legislative Council; minutes of meetings; reports.
- 50-417. Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.
- 50-417.02. Repealed. Laws 2011, LB 509, § 55.
- 50-417.03. Repealed. Laws 2011, LB 509, § 55.
- 50-417.04. Repealed. Laws 2011, LB 509, § 55.
- 50-417.05. Repealed. Laws 2011, LB 509, § 55.
- 50-417.06. Repealed. Laws 2011, LB 509, § 55.
- 50-419.02. Legislative Fiscal Analyst; revenue volatility report; contents.
- 50-422. Repealed. Laws 2012, LB 782, § 253.
- 50-424. Repealed. Laws 2016, LB746, § 30.
- 50-425. Education Committee of the Legislature; study uses of State Lottery Act proceeds dedicated to education; report.
- 50-426. Statewide vision for education; legislative findings.
- 50-427. Statewide vision for education; Education Committee of the Legislature; duties; report.
- 50-428. Education Committee of the Legislature; study postsecondary education affordability.
- 50-429. Repealed. Laws 2017, LB644, § 21.
- 50-430. Repealed. Laws 2017, LB644, § 21.
- 50-431. Repealed. Laws 2017, LB644, § 21.
- 50-432. Repealed. Laws 2017, LB644, § 21.
- 50-433. Repealed. Laws 2017, LB644, § 21.
- 50-434. Committee on Justice Reinvestment Oversight; created; members; duties; report.
- 50-435. Nebraska Economic Development Task Force; created; members; meetings; report.
- 50-444. Repealed. Laws 2012, LB 706, § 1.

50-401.01 Legislative Council; executive board; members; selection; powers and duties.

(1) The Legislative Council shall have an executive board, to be known as the Executive Board of the Legislative Council, which shall consist of a chairperson, a vice-chairperson, and six members of the Legislature, to be chosen by the Legislature at the commencement of each regular session of the Legislature

when the speaker is chosen, and the Speaker of the Legislature. The Legislature at large shall elect two of its members from legislative districts Nos. 1, 17, 30, 32 to 38, 40 to 44, 47, and 48, two from legislative districts Nos. 2, 3, 15, 16, 19, 21 to 29, 45, and 46, and two from legislative districts Nos. 4 to 14, 18, 20, 31, 39, and 49. The Chairperson of the Committee on Appropriations shall serve as a nonvoting ex officio member of the executive board whenever the board is considering fiscal administration.

(2) The executive board shall:

(a) Supervise all services and service personnel of the Legislature and may employ and fix compensation and other terms of employment for such personnel as may be needed to carry out the intent and activities of the Legislature or of the board, unless otherwise directed by the Legislature, including the adoption of policies by the executive board which permit (i) the purchasing of an annuity for an employee who retires or (ii) the crediting of amounts to an employee's deferred compensation account under section 84-1504. The payments to or on behalf of an employee may be staggered to comply with other law; and

(b) Appoint persons to fill the positions of Legislative Fiscal Analyst, Director of Research, Revisor of Statutes, and Legislative Auditor. The persons appointed to these positions shall have training and experience as determined by the executive board and shall serve at the pleasure of the executive board. The Legislative Performance Audit Committee shall recommend the person to be appointed Legislative Auditor. Their respective salaries shall be set by the executive board.

(3) Notwithstanding any other provision of law, the executive board may contract to obtain legal, auditing, accounting, actuarial, or other professional services or advice for or on behalf of the executive board, the Legislative Council, the Legislature, or any member of the Legislature. The providers of such services or advice shall meet or exceed the minimum professional standards or requirements established or specified by their respective professional organizations or licensing entities or by federal law. Such contracts, the deliberations of the executive board with respect to such contracts, and the work product resulting from such contracts shall not be subject to review or approval by any other entity of state government.

Source: Laws 1937, c. 118, § 1, p. 421; Laws 1939, c. 60, § 1, p. 261; C.S.Supp., 1941, § 50-501; Laws 1943, c. 118, § 1, p. 414; R.S. 1943, § 50-401; Laws 1949, c. 168, § 1(2), p. 445; Laws 1951, c. 169, § 1, p. 655; Laws 1965, c. 310, § 1, p. 872; Laws 1967, c. 595, § 1, p. 2026; Laws 1972, LB 1129, § 1; Laws 1973, LB 485, § 3; Laws 1992, LB 898, § 1; Laws 1993, LB 579, § 2; Laws 1994, LB 1243, § 18; Laws 1997, LB 314, § 2; Laws 2001, LB 75, § 1; Laws 2003, LB 510, § 1; Laws 2006, LB 956, § 1; Laws 2012, LB711, § 1.

50-405 Legislative Council; duties; investigations; studies.

It shall be the duty of the council (1) to investigate and study the possibilities for consolidation in state government for elimination of all unnecessary activities and of all duplication in office personnel and equipment and of the coordination of departmental activities or of methods of increasing efficiency and effecting economies, (2) to investigate and study the possibilities of reform-

ing the system of local government with a view to simplifying the organization of government, (3) to study the merit system as it relates to state and local government personnel, (4) to cooperate with the administration in devising means of enforcing the law and improving the effectiveness of administrative methods, (5) to study and inquire into the financial administration of the state government and the subdivisions thereof, the problems of taxation, including assessment and collection of taxes, and the distribution of the tax burden, and (6) to study and inquire into future planning of capital construction of the state and its governmental agencies as to location and sites for expansion.

Source: Laws 1937, c. 118, § 3, p. 422; C.S.Supp.,1941, § 50-503; R.S. 1943, § 50-405; Laws 1969, c. 431, § 1, p. 1453; Laws 1986, LB 996, § 1; Laws 2012, LB782, § 75; Laws 2013, LB222, § 17.

50-406 Legislative Council; committees; public hearings; oaths; subpoenas; books and records; examination; litigation; appeal.

In the discharge of any duty imposed by the Legislative Council, by statute, or by a resolution of the Legislature, the council, any committee thereof, and any standing or special committee created by statute or resolution of the Legislature may hold public hearings and may administer oaths, issue subpoenas when the committee has received prior approval by a majority vote of the Executive Board of the Legislative Council to issue subpoenas in connection with the specific inquiry or investigation in question, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court. The council or the committee may require any state agency, political subdivision, or person to provide information relevant to the committee's work, and the state agency, political subdivision, or person shall provide the information requested within thirty days after the request except as provided for in a subpoena. The statute or resolution creating a committee may prescribe limitations on the authority granted by this section.

Litigation to compel or quash compliance with authority exercised pursuant to this section shall be advanced on the trial docket and heard and decided by the court as quickly as possible. Either party may appeal to the Court of Appeals within ten days after a decision is rendered.

The district court of Lancaster County has jurisdiction over all litigation arising under this section. In all such litigation the executive board shall provide for legal representation for the council or committee.

Source: Laws 1937, c. 118, § 4, p. 422; C.S.Supp.,1941, § 50-504; R.S. 1943, § 50-406; Laws 1949, c. 168, § 3, p. 445; Laws 1965, c. 313, § 1, p. 875; Laws 2013, LB613, § 1; Laws 2018, LB193, § 86.

Operative date July 19, 2018.

50-407 Legislative Council; committees; subpoenas; enforcement; refusal to testify.

In case of disobedience on the part of any person to comply with any subpoena issued on behalf of the council or any committee thereof or of the refusal of any witness to testify on any matters regarding which he or she may be lawfully interrogated, the district court of Lancaster County or the judge

thereof, on application of a member of the council, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

If a witness refuses to testify before a special committee of the Legislature authorized pursuant to section 50-404 on the basis of the privilege against self-incrimination, the chairperson of the committee may request a court order pursuant to sections 29-2011.02 and 29-2011.03.

Source: Laws 1937, c. 118, § 4, p. 423; C.S.Supp.,1941, § 50-504; R.S. 1943, § 50-407; Laws 1949, c. 168, § 4, p. 445; Laws 1990, LB 1246, § 16; Laws 2013, LB613, § 2.

50-413 Legislative Council; minutes of meetings; reports.

The Legislative Council shall keep complete minutes of its meetings and shall submit electronically periodical reports to the members of the Legislature.

Source: Laws 1937, c. 118, § 9, p. 424; C.S.Supp.,1941, § 50-509; R.S. 1943, § 50-413; Laws 1949, c. 168, § 7, p. 446; Laws 2012, LB782, § 76.

50-417 Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.

The Nebraska Retirement Systems Committee shall study any legislative proposal, bill, or amendment, other than an amendment proposed by the Committee on Enrollment and Review, affecting any public retirement system, existing or proposed, established by the State of Nebraska or any political subdivision thereof and report electronically the results of such study to the Legislature, which report shall, when applicable, include an actuarial analysis and cost estimate and the recommendation of the Nebraska Retirement Systems Committee regarding passage of any bill or amendment. To assist the committee in the performance of such duties, the committee may consult with and utilize the services of any officer, department, or agency of the state and may from time to time engage the services of a qualified and experienced actuary. In the absence of any report from such committee, the Legislature shall consider requests from groups seeking to have retirement plans established for them and such other proposed legislation as is pertinent to existing retirement systems.

Source: Laws 1959, c. 243, § 2, p. 832; Laws 1989, LB 189, § 2; Laws 2011, LB10, § 1; Laws 2012, LB782, § 77.

50-417.02 Repealed. Laws 2011, LB 509, § 55.

50-417.03 Repealed. Laws 2011, LB 509, § 55.

50-417.04 Repealed. Laws 2011, LB 509, § 55.

50-417.05 Repealed. Laws 2011, LB 509, § 55.

50-417.06 Repealed. Laws 2011, LB 509, § 55.

50-419.02 Legislative Fiscal Analyst; revenue volatility report; contents.

(1) On November 15, 2016, the Legislative Fiscal Analyst shall prepare and electronically submit a revenue volatility report to the Appropriations Commit-

tee of the Legislature. Every two years thereafter the Legislative Fiscal Analyst shall prepare a revenue volatility report to append to the annual report required under section 77-2715.01. The report shall also be posted on the Legislature's web site.

(2) The report shall:

(a) Evaluate the tax base and the tax revenue volatility of revenue streams that provide funding for the state General Fund budget;

(b) Identify federal funding included in the state budget and any projected changes in the amount or value of federal funding or potential areas in which federal funding could be lost;

(c) Identify current and projected balances of the Cash Reserve Fund;

(d) Analyze the adequacy of current and projected balances of the Cash Reserve Fund in relation to the tax revenue volatility and the risk of a reduction in the amount or value of federal funding or potential areas in which federal funding could be lost;

(e) Include revenue projections for the ensuing two fiscal years included in the impending biennial budget; and

(f) Contain any other recommendations that the Legislative Fiscal Analyst determines are necessary.

Source: Laws 2015, LB33, § 1.

50-422 Repealed. Laws 2012, LB 782, § 253.

50-424 Repealed. Laws 2016, LB746, § 30.

50-425 Education Committee of the Legislature; study uses of State Lottery Act proceeds dedicated to education; report.

The Education Committee of the Legislature shall conduct a study of potential uses of the funds dedicated to education from proceeds of the lottery conducted pursuant to the State Lottery Act. The committee shall submit a report electronically on the findings and any recommendations to the Clerk of the Legislature on or before December 31, 2014. Factors the study shall consider, but not be limited to, include:

(1) The educational priorities of the state;

(2) What types of educational activities are suited to being funded by state lottery funds as opposed to state general funds;

(3) Whether state lottery funds should be used for significant projects requiring temporary funding or to sustain ongoing activities; and

(4) Whether periodic reviews of the use of lottery funds for education should be scheduled.

Source: Laws 2013, LB497, § 3.

Cross References

State Lottery Act, see section 9-801.

50-426 Statewide vision for education; legislative findings.

(1) The Legislature finds that:

(a) In order to continue the pursuit of the good life in Nebraska, a common statewide vision must be refined to address the potential of all students across the state; and

(b) Individuals and businesses making reasoned decisions about where to locate often place the quality of education as one of the primary considerations. Quality education not only serves as an indicator of the current quality of life in a community but also as a determinant for what lies ahead.

(2) It is the intent of the Legislature to focus educational resources from all sources in our state toward a common statewide vision for the future through collaborative efforts to achieve the best possible results for all Nebraskans, our communities, and our state.

Source: Laws 2014, LB1103, § 1.

50-427 Statewide vision for education; Education Committee of the Legislature; duties; report.

The Education Committee of the Legislature shall conduct a strategic planning process to create the statewide vision for education in Nebraska described in section 50-426 which shall include aspirational goals, visionary objectives, meaningful priorities, and practical strategies. The committee or subcommittees thereof may conduct meetings, work sessions, and focus groups with individuals and representatives of educational interests, taxpayer groups, the business community, or any other interested entities. The committee shall also hold at least three public hearings to receive testimony from the general public in locations that represent a variety of educational situations. The committee shall submit a report regarding such process electronically to the Clerk of the Legislature on or before December 31, 2014.

Source: Laws 2014, LB1103, § 2.

50-428 Education Committee of the Legislature; study postsecondary education affordability.

The Education Committee of the Legislature shall conduct a study of postsecondary education affordability in Nebraska and alternatives for supporting students and families with the cost. The committee shall electronically report its recommendations to the Clerk of the Legislature on or before December 31, 2015.

Source: Laws 2015, LB519, § 39.

50-429 Repealed. Laws 2017, LB644, § 21.

50-430 Repealed. Laws 2017, LB644, § 21.

50-431 Repealed. Laws 2017, LB644, § 21.

50-432 Repealed. Laws 2017, LB644, § 21.

50-433 Repealed. Laws 2017, LB644, § 21.

50-434 Committee on Justice Reinvestment Oversight; created; members; duties; report.

(1) The Legislature finds that while serious crime in the State of Nebraska has not increased in the past five years, the prison population continues to

increase as does the amount spent on correctional issues. The Legislature further finds that a need exists to closely examine the criminal justice system of the State of Nebraska in order to increase public safety while concurrently reducing correctional spending and reinvesting in strategies that decrease crime and strengthen Nebraska communities.

(2) It is the intent of the Legislature that the State of Nebraska work cooperatively with the Council of State Governments Justice Center to study and identify innovative solutions and evidence-based practices to develop a data-driven approach to reduce correctional spending and reinvest savings in strategies that can decrease recidivism and increase public safety and for the executive, legislative, and judicial branches of Nebraska state government to work with the Council of State Governments Justice Center in this process.

(3) The Committee on Justice Reinvestment Oversight is created as a special legislative committee to maintain continuous oversight of the Nebraska Justice Reinvestment Initiative and related issues.

(4) The special legislative committee shall be comprised of five members of the Legislature selected by the Executive Board of the Legislative Council, including the chairperson of the Judiciary Committee of the Legislature who shall serve as chairperson of the special legislative committee.

(5) The Committee on Justice Reinvestment Oversight shall monitor and guide analysis and policy development in all aspects of the criminal justice system in Nebraska within the scope of the justice reinvestment initiative, including tracking implementation of evidence-based strategies as established in Laws 2015, LB605, and reviewing policies to improve public safety, reduce recidivism, and reduce spending on corrections in Nebraska. With assistance from the Council of State Governments Justice Center, the committee shall monitor performance and measure outcomes by collecting data from counties and relevant state agencies for analysis and reporting.

(6) The committee shall prepare and submit an annual report of its activities and findings and may make recommendations to improve any aspect of the criminal justice system. The committee shall deliver the report to the Governor, the Clerk of the Legislature, and the Chief Justice by September 1 of each year. The report to the clerk shall be delivered electronically.

Source: Laws 2014, LB907, § 11; R.S.Supp.,2014, § 28-1501; Laws 2015, LB605, § 76.

50-435 Nebraska Economic Development Task Force; created; members; meetings; report.

(1) The Legislature finds and declares that economic development is vitally important to the well-being of the State of Nebraska, and that the Legislature and the state would benefit from a more coordinated approach to legislation addressing economic development.

(2) The Nebraska Economic Development Task Force is created. The task force shall collaborate with the Department of Economic Development and the Department of Labor to gather input on issues pertaining to economic development and discuss proactive approaches on economic development. The task force shall monitor analysis and policy development in all aspects of economic development in Nebraska. The task force shall also discuss long-range strategic plans to improve economic development within the state.

(3) The Nebraska Economic Development Task Force shall be composed of three members of the Legislature appointed by the Executive Board of the Legislative Council, one from each congressional district, and the following seven members: The chairperson of the Appropriations Committee of the Legislature or his or her designee, the chairperson of the Banking, Commerce and Insurance Committee of the Legislature or his or her designee, the chairperson of the Business and Labor Committee of the Legislature or his or her designee, the chairperson of the Education Committee of the Legislature or his or her designee, the chairperson of the Revenue Committee of the Legislature or his or her designee, the chairperson of the Legislature's Planning Committee or his or her designee, and the chairperson of the Urban Affairs Committee of the Legislature or his or her designee. The task force members shall choose a chairperson and vice-chairperson from among the task force members.

(4)(a) The Nebraska Economic Development Task Force shall meet on or before June 15, 2017, and on or before each June 15 thereafter.

(b) Following the meeting required by subdivision (4)(a) of this section, the task force shall meet not less than once every three months, but shall not be required to meet while the Legislature is in session.

(c) Meetings of the task force shall be called by the chairperson.

(d) The task force may ask other persons or entities to attend its meetings or present information at such meetings.

(e) The task force shall annually identify economic development priorities and electronically submit a report to the Legislature on or before December 31, 2017, and on or before each December 31 thereafter.

(5) This section shall terminate on January 1, 2021.

Source: Laws 2017, LB641, § 5.

Termination date January 1, 2021.

50-444 Repealed. Laws 2012, LB 706, § 1.

ARTICLE 5

BIOSCIENCE STEERING COMMITTEE

Section

- 50-501. Bioscience Steering Committee; created; members; prepare strategic plan; commission nonprofit corporation; Biotechnology Development Cash Fund; created; use; investment.
- 50-502. Department of Administrative Services; state's health care insurance programs and health care trust fund; plan presented to Appropriations Committee.
- 50-503. University of Nebraska; university's health care insurance programs and health care trust fund; plan presented to Appropriations Committee.
- 50-504. Water Funding Task Force; legislative findings.
- 50-505. Water Funding Task Force; created; members; qualifications; expenses.
- 50-506. Water Funding Task Force; consultation with other groups; meetings; consultant; termination.
- 50-507. Water Funding Task Force; report; contents.
- 50-508. Water Funding Task Force; funding; Department of Natural Resources; duties.

50-501 Bioscience Steering Committee; created; members; prepare strategic plan; commission nonprofit corporation; Biotechnology Development Cash Fund; created; use; investment.

(1) The Bioscience Steering Committee is created. The committee shall consist of the chairperson of the Revenue Committee of the Legislature or his or her designee, the chairperson of the Appropriations Committee or his or her designee, and three members of the Legislature selected by the Executive Board of the Legislative Council. The executive board shall appoint a chairperson and vice-chairperson of the committee.

(2) The committee shall conduct a study to measure the impact of the bioscience economy in Nebraska and prepare a strategic plan for growing the bioscience economy in Nebraska. The strategic plan shall report on any progress or remaining work since the last study conducted on the bioscience industry. The strategic plan shall further propose strategies for developing the bioscience economy and shall include, but not be limited to, strategies to (a) stimulate job growth in the fields of science, technology, and engineering throughout Nebraska, (b) encourage individuals and organizations engaged in the biotechnology businesses to locate and expand in Nebraska, (c) capture and commercialize technology that is discovered and developed in Nebraska, (d) grow Nebraska's investment capital market and incentivize investment in life science start-up companies, and (e) develop Nebraska's biotechnology workforce in cooperation with higher education institutions. The strategic plan shall estimate the wealth and number of jobs generated from expanding the bioscience economy.

(3) The committee, in consultation with the executive board, shall commission a nonprofit corporation to provide research, analysis, and recommendations to the committee for the development of the study and strategic plan. The nonprofit corporation shall be incorporated pursuant to the Nebraska Nonprofit Corporation Act, shall be organized exclusively for nonprofit purposes within the meaning of section 501(c)(6) of the Internal Revenue Code as defined in section 49-801.01, shall be engaged in activities to facilitate and promote the growth of life sciences within Nebraska, and shall be dedicated to the development and growth of the bioscience economy.

(4) The committee shall prepare and present electronically to the Legislature a statewide strategic plan for the bioscience economy during the One Hundred Fifth Legislature, First Session, for consideration by the Legislature.

(5)(a) The Biotechnology Development Cash Fund is created. The money in the fund shall be used to commission the nonprofit corporation and provide access to resources necessary for developing the study and strategic plan.

(b) The fund may receive gifts, bequests, grants, or other contributions or donations from public or private entities. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2009, LB246, § 1; Laws 2010, LB911, § 1; Laws 2016, LB1093, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska Nonprofit Corporation Act, see section 21-1901.

Nebraska State Funds Investment Act, see section 72-1260.

50-502 Department of Administrative Services; state's health care insurance programs and health care trust fund; plan presented to Appropriations Committee.

The Department of Administrative Services shall, on or before December 1 of each year, present its plan regarding the management of the state's health care insurance programs and the health care trust fund to the Appropriations Committee of the Legislature. This presentation shall include, but is not limited to, the amount of reserves in the trust fund.

Source: Laws 2013, LB620, § 1.

50-503 University of Nebraska; university's health care insurance programs and health care trust fund; plan presented to Appropriations Committee.

The University of Nebraska shall, on or before December 1 of each year, present its plan regarding the management of the university's health care insurance programs and its health care trust fund to the Appropriations Committee of the Legislature. This presentation shall include, but is not limited to, the amount of reserves in the trust fund.

Source: Laws 2013, LB620, § 2.

50-504 Water Funding Task Force; legislative findings.

The Legislature finds that:

(1) Nebraska's water resources are finite and must be wisely managed to ensure their continued availability for beneficial use;

(2) The state must invest in: (a) Research and data gathering; (b) further integrating the management of Nebraska's water supplies; (c) improving the state's aging and antiquated water supply infrastructure; (d) building new water supply infrastructure; (e) promoting coordination and collaboration among all water users; and (f) providing information to policymakers to justify a stable source of project funds;

(3) To determine the costs of effective conservation, sustainability, and management of Nebraska's water resources, the state's identified water needs must be compiled and organized and a process must be established in order to identify statewide projects and research recommendations; and

(4) To facilitate the creation of a funding process, a collaborative effort of experts representing all water interests and areas of the state is important to ensure fair and balanced water funding.

Source: Laws 2013, LB517, § 1.

50-505 Water Funding Task Force; created; members; qualifications; expenses.

(1) The Water Funding Task Force is created. The task force shall consist of the members of the Nebraska Natural Resources Commission and eleven additional members to be appointed by the Governor. The Director of Natural Resources or his or her designee, the chairperson of the Natural Resources Committee of the Legislature or his or her designee, and five additional members of the Legislature appointed by the Executive Board of the Legislative Council shall be nonvoting, ex officio members of the task force. In appointing members to the task force, the Governor:

(a) Shall seek to create a broad-based task force with knowledge of and experience with and representative of Nebraska's water use and economy;

(b) Shall give equal recognition to the importance of both water quantity and water quality;

(c) Shall appoint one member from each of the following categories: Public power; public power and irrigation districts; irrigation districts; a metropolitan utilities district; municipalities; agriculture; wildlife conservation; livestock producers; agribusiness; manufacturing; and outdoor recreation users; and

(d) May solicit and accept nominations for appointments to the task force from recognized water interest groups in Nebraska.

(2) The members of the task force appointed by the Governor shall represent diverse geographic regions of the state, including urban and rural areas. Such members shall be appointed within thirty days after June 5, 2013. Members shall begin serving immediately following notice of appointment. Members shall be reimbursed for their actual and necessary expenses incurred in carrying out their duties as members as provided in sections 81-1174 to 81-1177.

Source: Laws 2013, LB517, § 2.

50-506 Water Funding Task Force; consultation with other groups; meetings; consultant; termination.

(1) The Water Funding Task Force may consult with other groups in its work, including, but not limited to, the University of Nebraska, the Department of Environmental Quality, the Game and Parks Commission, the United States Army Corps of Engineers, the United States Geological Survey, the United States Fish and Wildlife Service, the United States Bureau of Reclamation, and the Natural Resources Conservation Service of the United States Department of Agriculture.

(2) For administrative and budgetary purposes, the task force shall be housed within the Department of Natural Resources. Additional advisory support may be requested from appropriate federal and state agencies.

(3) The task force may meet as necessary and may hire a consultant or consultants to facilitate the work and meetings of the task force and enter into agreements to achieve the objectives of the task force. The task force may create and use working groups or subcommittees as it deems necessary. Any contracts or agreements entered into under this subsection shall not be subject to the Nebraska Consultants' Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501 to 73-510.

(4) The Water Funding Task Force terminates on December 31, 2013.

Source: Laws 2013, LB517, § 3.

Cross References

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.

50-507 Water Funding Task Force; report; contents.

(1) On or before December 31, 2013, the Water Funding Task Force shall develop and provide a report electronically to the Legislature which contains the following:

(a) Recommendations for a strategic plan which prioritizes programs, projects, and activities in need of funding. The recommendations shall give equal consideration to and be classified into the following categories:

(i) Research, data, and modeling needed to assist the state in meeting its water management goals;

(ii) Rehabilitation or restoration of water supply infrastructure, new water supply infrastructure, or water supply infrastructure maintenance;

(iii) Conjunctive management, storage, and integrated management of ground water and surface water; and

(iv) Compliance with interstate compacts or agreements or other formal state contracts or agreements;

(b) Recommendations for ranking criteria to identify funding priorities based on, but not limited to, the following factors:

(i) The extent to which the program, project, or activity provides increased water productivity and otherwise maximizes the beneficial use of Nebraska's water resources for the benefit of its residents;

(ii) The extent to which the program, project, or activity assists the state in meeting its obligations under interstate compacts or decrees or other formal state contracts or agreements;

(iii) The extent to which the program, project, or activity utilizes objectives described in the Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process issued by the Department of Natural Resources;

(iv) The extent to which the program, project, or activity has been approved for, but has not received, funding through an established state program;

(v) The cost-effectiveness of the program, project, or activity relative to achieving the state's water management goals;

(vi) The extent to which the program, project, or activity contributes to the state's ability to leverage state dollars with local or federal government partners or other partners to maximize the use of its resources; and

(vii) The extent to which the program, project, or activity contributes to multiple water supply management goals, including, but not limited to, flood control, agricultural uses, recreation benefits, wildlife habitat, conservation of water resources, and preservation of water resources for future generations;

(c) Recommendations for legislation on a permanent structure and process through which the programs, projects, or activities described in this section will be provided with funding, including:

(i) A permanent governing board structure and membership;

(ii) An application process;

(iii) A statewide project distribution mechanism; and

(iv) A timeframe for funding allocations based on the list of programs, projects, and activities provided for in this section;

(d) Recommendations for the annual funding amount and the start date for distribution of funds; and

(e) Recommendations for statutory changes relating to regulatory authorities and to funds and programs administered by, and boards and commissions under the direction of, the department, based on the task force's evaluation of the efficiency of such funds, programs, boards, and commissions.

(2) The task force shall make every effort to identify and consult with all water-use stakeholder groups in Nebraska on the development of the recommendations required under sections 50-504 to 50-507.

Source: Laws 2013, LB517, § 4.

50-508 Water Funding Task Force; funding; Department of Natural Resources; duties.

The Department of Natural Resources shall establish a separate budget subprogram to account for funds appropriated to carry out sections 50-504 to 50-507. No later than February 1, 2014, the department shall notify the Natural Resources Committee of the Legislature and the Appropriations Committee of the Legislature regarding the projected unexpended and uncommitted balance remaining in the separate budget subprogram.

Source: Laws 2013, LB517, § 5.

ARTICLE 6

WHITECLAY PUBLIC HEALTH EMERGENCY TASK FORCE

Section

50-601. Whiteclay Public Health Emergency Task Force; created; members.

50-602. Whiteclay Public Health Emergency Task Force; duties.

50-603. Whiteclay Public Health Emergency Task Force; report; contents.

50-601 Whiteclay Public Health Emergency Task Force; created; members.

(1) The Whiteclay Public Health Emergency Task Force is created.

(2) The task force shall consist of five voting members: The chairperson of the State-Tribal Relations Committee of the Legislature, an additional member of the State-Tribal Relations Committee of the Legislature, the chairperson of the Health and Human Services Committee of the Legislature or his or her designee, the chairperson of the Appropriations Committee of the Legislature or his or her designee, and the chairperson of the Judiciary Committee of the Legislature or his or her designee. The voting members of the task force shall choose a chairperson and vice-chairperson from among the voting members.

(3) The task force shall also include the following nonvoting, ex officio members: The executive director of the Commission on Indian Affairs or his or her designee, a public health expert, and a data analysis expert from the University of Nebraska Medical Center appointed by the Chancellor of the University of Nebraska Medical Center.

(4) The task force shall consult with (a) advocacy groups that focus on public health issues and economic development issues, (b) academic experts in health care and economic development issues, (c) service providers, (d) educational institutions, (e) workforce development agencies, and (f) experts in public health issues for Native American people.

Source: Laws 2017, LB407, § 1.

50-602 Whiteclay Public Health Emergency Task Force; duties.

(1) The Whiteclay Public Health Emergency Task Force shall examine public health implications of alcohol sales in Whiteclay, Nebraska, on the Whiteclay community and surrounding areas, including the neighboring Pine Ridge Reservation. The task force shall: (a) Collect, examine, and analyze data on fetal

alcohol syndrome and other health conditions related to alcoholism in such areas; (b) collect, examine, and analyze data on access in such areas to detoxification, treatment facilities, telehealth, distance learning, and other health resources for those affected by the consumption of alcohol, including affected children; (c) collect, examine, and analyze data on children in such areas who are at risk of continuing a cycle of alcoholism unless outside intervention is made available; (d) encourage participation and obtain input from academic and medical experts, including, but not limited to, the University of Nebraska Medical Center; (e) encourage and obtain input from nonprofit organizations, faith-based institutions, and city, county, and tribal government officials to evaluate and develop strategies and solutions to help victims escape alcoholism; (f) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs implemented by other states directed toward Native American populations as they relate to preventing and combating alcoholism; (g) evaluate the adequacy of interagency data sharing and policy coordination and recommend changes as necessary; (h) examine sources of federal, state, and private funds that may be available for prevention, detoxification, treatment, rehabilitation, and economic development; (i) create a long-range strategic plan containing measurable goals and benchmarks, including future action needed to attain those goals and benchmarks, for decreasing the incidence of alcohol-related health problems through prevention programs and increasing treatment, access to detoxification services, and economic growth in Whiteclay, Nebraska, and the surrounding areas; and (j) recommend data-supported changes to policies, procedures, and programs to address the needs of children affected by alcohol-related health issues and to help those children escape the cycle of alcoholism, including the steps that will be required to make the recommended changes and whether further action is required by the Legislature or local governments.

(2) To accomplish the objectives set forth in subsection (1) of this section, the task force may request, obtain, review, and analyze information relating to public health issues in Whiteclay, Nebraska, and surrounding areas, including, but not limited to, reports, audits, data, projections, and statistics.

Source: Laws 2017, LB407, § 2.

50-603 Whiteclay Public Health Emergency Task Force; report; contents.

On or before December 15, 2017, and on or before December 15, 2018, the Whiteclay Public Health Emergency Task Force shall submit a preliminary report to the Governor, the executive director of the Commission on Indian Affairs, and electronically to the State-Tribal Relations Committee of the Legislature and the Executive Board of the Legislative Council. On or before December 31, 2019, the task force shall submit a final report to the Governor, the executive director of the Commission on Indian Affairs, and electronically to the State-Tribal Relations Committee of the Legislature and the Executive Board of the Legislative Council. The preliminary reports and the final report shall include: (1) The long-range strategic plan required pursuant to section 50-602; (2) a summary of the actions taken by the task force to fulfill its statutory purposes and duties during the time period covered by the report; (3) a description of the policies, procedures, and programs that have been implemented or modified to help rectify the Whiteclay public health emergency; and (4) the task force's recommendations on how the state should act to solve issues

relating to the Whiteclay public health emergency and the economic and social issues contributing to the emergency.

The Whiteclay Public Health Emergency Task Force shall terminate on December 31, 2019.

Source: Laws 2017, LB407, § 3.

ARTICLE 11

LEGISLATIVE DISTRICTS

Section

| | |
|-------------|-----------------------------------|
| 50-1101. | Transferred to section 50-1153. |
| 50-1102. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1103. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1104. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1105. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1106. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1107. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1108. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1109. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1110. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1111. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1112. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1113. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1114. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1115. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1116. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1117. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1118. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1119.01. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1120. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1121. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1122. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1123. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1124. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1125. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1126. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1127. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1128. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1129. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1130. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1131. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1132. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1133. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1134. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1135. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1136. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1137. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1138. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1139. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1140. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1141.01. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1142. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1143. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1144. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1145. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1146. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1147. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1148. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1149. | Repealed. Laws 2011, LB 703, § 5. |
| 50-1150. | Repealed. Laws 2011, LB 703, § 5. |

Section

- 50-1152. Transferred to section 50-1154.
50-1153. Legislative districts; division; population figures and maps; basis; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.
50-1154. Legislative districts; change; when operative.

50-1101 Transferred to section 50-1153.**50-1102 Repealed. Laws 2011, LB 703, § 5.****50-1103 Repealed. Laws 2011, LB 703, § 5.****50-1104 Repealed. Laws 2011, LB 703, § 5.****50-1105 Repealed. Laws 2011, LB 703, § 5.****50-1106 Repealed. Laws 2011, LB 703, § 5.****50-1107 Repealed. Laws 2011, LB 703, § 5.****50-1108 Repealed. Laws 2011, LB 703, § 5.****50-1109 Repealed. Laws 2011, LB 703, § 5.****50-1110 Repealed. Laws 2011, LB 703, § 5.****50-1111 Repealed. Laws 2011, LB 703, § 5.****50-1112 Repealed. Laws 2011, LB 703, § 5.****50-1113 Repealed. Laws 2011, LB 703, § 5.****50-1114 Repealed. Laws 2011, LB 703, § 5.****50-1115 Repealed. Laws 2011, LB 703, § 5.****50-1116 Repealed. Laws 2011, LB 703, § 5.****50-1117 Repealed. Laws 2011, LB 703, § 5.****50-1118 Repealed. Laws 2011, LB 703, § 5.****50-1119.01 Repealed. Laws 2011, LB 703, § 5.****50-1120 Repealed. Laws 2011, LB 703, § 5.****50-1121 Repealed. Laws 2011, LB 703, § 5.****50-1122 Repealed. Laws 2011, LB 703, § 5.****50-1123 Repealed. Laws 2011, LB 703, § 5.****50-1124 Repealed. Laws 2011, LB 703, § 5.****50-1125 Repealed. Laws 2011, LB 703, § 5.****50-1126 Repealed. Laws 2011, LB 703, § 5.****50-1127 Repealed. Laws 2011, LB 703, § 5.****50-1128 Repealed. Laws 2011, LB 703, § 5.**

- 50-1129 Repealed. Laws 2011, LB 703, § 5.
- 50-1130 Repealed. Laws 2011, LB 703, § 5.
- 50-1131 Repealed. Laws 2011, LB 703, § 5.
- 50-1132 Repealed. Laws 2011, LB 703, § 5.
- 50-1133 Repealed. Laws 2011, LB 703, § 5.
- 50-1134 Repealed. Laws 2011, LB 703, § 5.
- 50-1135 Repealed. Laws 2011, LB 703, § 5.
- 50-1136 Repealed. Laws 2011, LB 703, § 5.
- 50-1137 Repealed. Laws 2011, LB 703, § 5.
- 50-1138 Repealed. Laws 2011, LB 703, § 5.
- 50-1139 Repealed. Laws 2011, LB 703, § 5.
- 50-1140 Repealed. Laws 2011, LB 703, § 5.
- 50-1141.01 Repealed. Laws 2011, LB 703, § 5.
- 50-1142 Repealed. Laws 2011, LB 703, § 5.
- 50-1143 Repealed. Laws 2011, LB 703, § 5.
- 50-1144 Repealed. Laws 2011, LB 703, § 5.
- 50-1145 Repealed. Laws 2011, LB 703, § 5.
- 50-1146 Repealed. Laws 2011, LB 703, § 5.
- 50-1147 Repealed. Laws 2011, LB 703, § 5.
- 50-1148 Repealed. Laws 2011, LB 703, § 5.
- 50-1149 Repealed. Laws 2011, LB 703, § 5.
- 50-1150 Repealed. Laws 2011, LB 703, § 5.
- 50-1152 Transferred to section 50-1154.

50-1153 Legislative districts; division; population figures and maps; basis; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) The State of Nebraska is hereby divided into forty-nine legislative districts. Each district shall be entitled to one member in the Legislature. The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

(2) The numbers and boundaries of the legislative districts are designated and established by maps identified and labeled as maps LEG11-1, LEG11-1A, LEG11-43002E-2, LEG11-43002E-2A, LEG11-2B, LEG11-3, LEG11-4, LEG11-5, LEG11-6, LEG11-7, LEG11-8, LEG11-9, LEG11-10, LEG11-11, LEG11-12, LEG11-13, LEG11-14, LEG11-15, LEG11-16, LEG11-17, LEG11-18,

LEG11-19, LEG11-20, LEG11-21, LEG11-21A, LEG11-22, LEG11-23, LEG11-24, LEG11-25, LEG11-25A, LEG11-26, LEG11-27, LEG11-28, LEG11-29, LEG11-30, LEG11-30A, LEG11-31, LEG11-32, LEG11-32A, LEG11-33, LEG11-34, LEG11-34A, LEG11-35, LEG11-36, LEG11-37, LEG11-37A, LEG11-38, LEG11-38A, LEG11-39, LEG11-40, LEG11-41, LEG11-42, LEG11-43002E-43, LEG11-44, LEG11-45, LEG11-46, LEG11-43002E-47, LEG11-48, and LEG11-43002E-49, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2011, LB703.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on May 27, 2011.

(b) When questions of interpretation of legislative district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the legislative district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her web site the maps referred to in subsection (2) of this section identifying the boundaries for the legislative districts.

Source: Laws 1981, LB 406, § 1; R.S.1943, (1987), § 5-201; Laws 1991, LB 614, § 1; Laws 1992, Second Spec. Sess., LB 7, § 1; Laws 2001, LB 852, § 1; R.S.1943, (2010), § 50-1101; Laws 2011, LB703, § 2.

50-1154 Legislative districts; change; when operative.

The changes made to this section and section 50-1153 by Laws 2011, LB703, shall become operative on May 27, 2011, except that members of the Legislature from the odd-numbered districts shall be nominated at the primary election in 2012 and elected at the general election in November 2012 for the term commencing January 9, 2013. The members of the Legislature elected or appointed prior to May 27, 2011, shall represent the newly established districts for the balance of their terms, with each member representing the same numbered district as prior to May 27, 2011.

Source: Laws 1981, LB 406, § 52; R.S.1943, (1987), § 5-252; Laws 1991, LB 614, § 52; Laws 1992, LB 946, § 1; Laws 1992, Second Spec. Sess., LB 7, § 7; Laws 1992, Second Spec. Sess., LB 15, § 3; Laws 2001, LB 852, § 51; R.S.1943, (2010), § 50-1152; Laws 2011, LB703, § 3.

ARTICLE 12

LEGISLATIVE PERFORMANCE AUDIT ACT

Section

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 50-1203. Terms, defined.
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50-1202 Legislative findings and declarations; purpose of act.

(1) The Legislature hereby finds and declares that pursuant to section 50-402 it is the duty of the Legislative Council to do independent assessments of the performance of state government organizations, programs, activities, and functions in order to provide information to improve public accountability and facilitate decisionmaking by parties with responsibility to oversee or initiate corrective action.

(2) The purpose of the Legislative Performance Audit Act is to provide for a system of performance audits to be conducted by the office of Legislative Audit as directed by the Legislative Performance Audit Committee.

(3) It is not the purpose of the act to interfere with the duties of the Public Counsel or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogative of any executive state officer, agency, board, bureau, commission, association, society, or institution, except that the act shall not be construed to preclude a performance audit of an agency on the basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogative of the Governor to monitor and report on the performance of the agencies, boards, bureaus, commissions, associations, societies, and institutions under his or her administrative direction.

Source: Laws 1992, LB 988, § 2; Laws 2003, LB 607, § 4; Laws 2013, LB39, § 2.

50-1203 Terms, defined.

For purposes of the Legislative Performance Audit Act:

(1) Agency means any department, board, commission, or other governmental unit of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska, including the Office of Probation Administration and the Office of Public Guardian, but does not include (a) any court, (b) the Governor or his or her personal staff, (c) any political subdivision or entity thereof, or (d) any entity of the federal government;

(2) Auditor of Public Accounts means the Auditor of Public Accounts whose powers and duties are prescribed in section 84-304;

(3) Business day means a day on which state offices are open for regular business;

(4) Committee means the Legislative Performance Audit Committee;

(5) Committee report means the report released by the committee at the conclusion of a performance audit;

(6) Legislative Auditor means the Legislative Auditor appointed by the Executive Board of the Legislative Council under section 50-401.01;

(7) Majority vote means a vote by the majority of the committee's members;

(8) Office means the office of Legislative Audit;

(9) Performance audit means an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decisionmaking by parties with responsibility to oversee or initiate corrective action. Performance audits may have a variety of objectives, including the assessment of a program's effectiveness and results, economy and efficiency, internal control, and compliance with legal or other requirements;

(10) Preaudit inquiry means an investigatory process during which the office gathers and examines evidence to determine if a performance audit topic has merit;

(11) Tax incentive performance audit means an evaluation of a tax incentive program pursuant to section 50-1209; and

(12) Working papers means those documents containing evidence to support the office's findings, opinions, conclusions, and judgments and includes the collection of evidence prepared or obtained by the office during the performance audit or preaudit inquiry.

Source: Laws 1992, LB 988, § 3; Laws 2003, LB 607, § 5; Laws 2004, LB 1118, § 1; Laws 2006, LB 588, § 1; Laws 2006, LB 956, § 3; Laws 2013, LB39, § 3; Laws 2015, LB538, § 1; Laws 2016, LB1016, § 1.

50-1204 Legislative Performance Audit Committee; established; membership; officers; Legislative Auditor; duties.

(1) The Legislative Performance Audit Committee is hereby established as a special legislative committee to exercise the authority and perform the duties provided for in the Legislative Performance Audit Act. The committee shall be composed of the Speaker of the Legislature, the chairperson of the Executive Board of the Legislative Council, the chairperson of the Appropriations Committee of the Legislature, and four other members of the Legislature to be chosen by the Executive Board of the Legislative Council. The executive board shall ensure that the Legislative Performance Audit Committee includes adequate geographic representation. The chairperson and vice-chairperson of the Legislative Performance Audit Committee shall be elected by majority vote. For purposes of tax incentive performance audits authorized in section 50-1209, the committee shall include as nonvoting members the chairperson of the Revenue Committee of the Legislature or his or her designee and one other member of the Revenue Committee, as selected by the Revenue Committee. The Legislative Performance Audit Committee shall be subject to all rules prescribed by the Legislature. The committee shall be reconstituted at the beginning of each Legislature and shall meet as needed.

(2) The Legislative Auditor shall ensure that performance audit work conducted by the office conforms with performance audit standards contained in

the Government Auditing Standards (2011 Revision) as required in section 50-1205.01. The office shall be composed of the Legislative Auditor and other employees of the Legislature employed to conduct performance audits. The office shall be the custodian of all records generated by the committee or office except as provided by section 50-1213, subsection (11) of section 77-2711, or subdivision (10)(a) of section 77-27,119. The office shall inform the Legislative Fiscal Analyst of its activities and consult with him or her as needed. The office shall operate under the general direction of the committee.

Source: Laws 1992, LB 988, § 4; Laws 2003, LB 607, § 6; Laws 2006, LB 588, § 2; Laws 2006, LB 956, § 4; Laws 2008, LB822, § 1; Laws 2013, LB39, § 4; Laws 2013, LB40, § 1; Laws 2015, LB538, § 2.

50-1205 Committee; duties.

The committee shall:

(1) Adopt, by majority vote, procedures consistent with the Legislative Performance Audit Act to govern the business of the committee and the conduct of performance audits;

(2) Ensure that performance audits done by the committee are not undertaken based on or influenced by special or partisan interests;

(3) Review performance audit requests and select, by majority vote, agencies or agency programs for performance audit;

(4) Review, amend, if necessary, and approve a scope statement and an audit plan for each performance audit;

(5) Respond to inquiries regarding performance audits;

(6) Inspect or approve the inspection of the premises, or any parts thereof, of any agency or any property owned, leased, or operated by an agency as frequently as is necessary in the opinion of the committee to carry out a performance audit or preaudit inquiry;

(7) Inspect and examine, or approve the inspection and examination of, the records and documents of any agency as a part of a performance audit or preaudit inquiry;

(8) Administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the depositions of witnesses either residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court;

(9) Review completed performance audit reports prepared by the office, together with comments from the evaluated agency, and adopt recommendations and incorporate them into a committee report;

(10) Release the committee report to the public and distribute it electronically to the Clerk of the Legislature with or without benefit of a public hearing;

(11) Hold a public hearing, at the committee's discretion, for the purpose of receiving testimony prior to issuance of the committee report;

(12) Establish a system to ascertain and monitor an agency's implementation of the recommendations contained in the committee report and compliance with any statutory changes resulting from the recommendations;

(13) Issue an annual report each September, to be prepared by the Legislative Auditor and approved by the committee, summarizing recommendations made

pursuant to reports of performance audits during the previous fiscal year and the status of implementation of those recommendations;

(14) Consult with the Legislative Auditor regarding the staffing and budgetary needs of the office and assist in presenting budget requests to the Appropriations Committee of the Legislature;

(15) Approve or reject, within the budgetary limits of the office, contracts to retain consultants to assist with performance audits requiring specialized knowledge or expertise. Requests for consultant contracts shall be approved by the Legislative Auditor and presented to the Legislative Performance Audit Committee by the Legislative Auditor. A majority vote shall be required to approve consultant contract requests. For purposes of section 50-1213, subsection (11) of section 77-2711, and subsections (10) through (13) of section 77-27,119, any consultant retained to assist with a performance audit or preaudit inquiry shall be considered an employee of the office during the course of the contract; and

(16) At its discretion, and with the agreement of the Auditor of Public Accounts, conduct joint fiscal or performance audits with the Auditor of Public Accounts. The details of any joint audit shall be agreed upon in writing by the committee and the Auditor of Public Accounts.

Source: Laws 1992, LB 988, § 5; Laws 2003, LB 607, § 7; Laws 2006, LB 588, § 3; Laws 2006, LB 956, § 5; Laws 2012, LB782, § 78; Laws 2013, LB39, § 5; Laws 2013, LB222, § 19.

50-1205.01 Performance audits; standards.

(1) Except as provided in subsections (2) and (3) of this section, performance audits done under the terms of the Legislative Performance Audit Act shall be conducted in accordance with the generally accepted government auditing standards for performance audits contained in the Government Auditing Standards (2011 Revision), published by the Comptroller General of the United States, Government Accountability Office.

(2) Standards requiring continuing education for employees of the office shall be met as practicable based on the availability of training funds.

(3) The frequency of the required external quality control review shall be determined by the committee.

(4) At the beginning of each biennial legislative session, the Legislative Auditor shall create a plan for meeting such standards and provide the plan to the chairperson of the Legislative Performance Audit Committee.

Source: Laws 2003, LB 607, § 8; Laws 2004, LB 1118, § 2; Laws 2006, LB 588, § 4; Laws 2008, LB822, § 2; Laws 2013, LB40, § 2; Laws 2017, LB210, § 1.

50-1206 Performance audits; tax incentive performance audit; how initiated; procedure.

(1) Requests for performance audits may be made by the Governor, any other constitutional officer of the State of Nebraska, a legislator, the Legislative Auditor, the Legislative Fiscal Analyst, or the Director of Research of the Legislature.

(2) Performance audit requests shall be submitted to the committee chairperson or Legislative Auditor by letter or on a form developed by the Legislative Auditor.

(3) When considering a performance audit request, if the committee determines that the request has potential merit but insufficient information is available, it may, by majority vote, instruct the Legislative Auditor to conduct a preaudit inquiry.

(4) Upon completion of the preaudit inquiry, the committee chairperson shall place the request on the agenda for the committee's next meeting and shall notify the request sponsor of that action.

(5) Tax incentive performance audits shall be initiated as provided in section 50-1209.

Source: Laws 1992, LB 988, § 6; Laws 2003, LB 607, § 9; Laws 2006, LB 956, § 6; Laws 2008, LB822, § 3; Laws 2015, LB538, § 3.

50-1208 Performance audit; committee; duties; office; duties.

(1) The committee shall, by majority vote, adopt requests for performance audit. The committee chairperson shall notify each requester of any action taken on his or her request.

(2) Before the office begins a performance audit, it shall notify in writing the agency director, the program director, when relevant, and the Governor that a performance audit will be conducted.

(3) Following notification, the office shall arrange an entrance conference to provide the agency with further information about the audit process. The agency director shall inform the agency staff, in writing, of the performance audit and shall instruct agency staff to cooperate fully with the office.

(4) After the entrance conference, the office shall conduct the research necessary to draft a scope statement for consideration by the committee. The scope statement shall identify the specific issues to be addressed in the audit. The committee shall, by majority vote, adopt, reject, or amend and adopt the scope statement prepared by the office.

(5) Once the committee has adopted a scope statement, the office shall develop an audit plan. The audit plan shall include a description of the research and audit methodologies to be employed and a projected deadline for completion of the office's report. The audit plan shall be submitted to the committee, and a majority vote shall be required for its approval. Upon approval of the audit plan, the agency shall be notified in writing of the specific scope of the audit and the projected deadline for completion of the office's report. If the office needs information from a political subdivision or entity thereof to effectively conduct a performance audit of an agency, the political subdivision or entity thereof shall provide information, on request, to the office.

(6) If the performance audit reveals a need to modify the scope statement or audit plan, the Legislative Auditor may request that the committee make revisions. A majority vote shall be required to revise the scope statement or audit plan. The agency shall be notified in writing of any revision to the scope statement or audit plan.

Source: Laws 1992, LB 988, § 8; Laws 2003, LB 607, § 11; Laws 2006, LB 956, § 8; Laws 2013, LB39, § 6; Laws 2015, LB538, § 4.

50-1209 Tax incentive performance audits; schedule; contents.

(1) Tax incentive performance audits shall be conducted by the office pursuant to this section on the following tax incentive programs:

- (a) The Angel Investment Tax Credit Act;
- (b) The Beginning Farmer Tax Credit Act;
- (c) The Nebraska Advantage Act;
- (d) The Nebraska Advantage Microenterprise Tax Credit Act;
- (e) The Nebraska Advantage Research and Development Act;
- (f) The Nebraska Advantage Rural Development Act;
- (g) The Nebraska Job Creation and Mainstreet Revitalization Act;
- (h) The New Markets Job Growth Investment Act; and

(i) Any other tax incentive program created by the Legislature for the purpose of recruitment or retention of businesses in Nebraska. In determining whether a future tax incentive program is enacted for the purpose of recruitment or retention of businesses, the office shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive program is promoted as a business incentive by the Department of Economic Development or other relevant state agency.

(2) The office shall develop a schedule for conducting tax incentive performance audits and shall update the schedule annually. The schedule shall ensure that each tax incentive program is reviewed at least once every five years.

(3) Each tax incentive performance audit conducted by the office pursuant to this section shall include the following:

(a) An analysis of whether the tax incentive program is meeting the following goals:

(i) Strengthening the state's economy overall by:

(A) Attracting new business to the state;

(B) Expanding existing businesses;

(C) Increasing employment, particularly employment of full-time workers. The analysis shall consider whether the job growth in those businesses receiving tax incentives is at least ten percent above industry averages;

(D) Creating high-quality jobs; and

(E) Increasing business investment;

(ii) Revitalizing rural areas and other distressed areas of the state;

(iii) Diversifying the state's economy and positioning Nebraska for the future by stimulating entrepreneurial firms, high-tech firms, and renewable energy firms; and

(iv) Any other program-specific goals found in the statutes for the tax incentive program being evaluated;

(b) An analysis of the economic and fiscal impacts of the tax incentive program. The analysis may take into account the following considerations in addition to other relevant factors:

(i) The costs per full-time worker. When practical and applicable, such costs shall be considered in at least the following two ways:

(A) By an estimation including the minimum investment required to qualify for benefits; and

(B) By an estimation including all investment;

(ii) The extent to which the tax incentive changes business behavior;

(iii) The results of the tax incentive for the economy of Nebraska as a whole. This consideration includes both direct and indirect impacts generally and any effects on other Nebraska businesses; and

(iv) A comparison to the results of other economic development strategies with similar goals, other policies, or other incentives;

(c) An assessment of whether adequate protections are in place to ensure the fiscal impact of the tax incentive does not increase substantially beyond the state's expectations in future years;

(d) An assessment of the fiscal impact of the tax incentive on the budgets of local governments, if applicable; and

(e) Recommendations for any changes to statutes or rules and regulations that would allow the tax incentive program to be more easily evaluated in the future, including changes to data collection, reporting, sharing of information, and clarification of goals.

(4) For purposes of this section:

(a) Distressed area means an area of substantial unemployment as determined by the Department of Labor pursuant to the Nebraska Workforce Innovation and Opportunity Act;

(b) Full-time worker means an individual (i) who usually works thirty-five hours per week or more, (ii) whose employment is reported to the Department of Labor on two consecutive quarterly wage reports, and (iii) who earns wages equal to or exceeding the state minimum wage;

(c) High-quality job means a job that:

(i) Averages at least thirty-five hours of employment per week;

(ii) Is reported to the Department of Labor on two consecutive quarterly wage reports; and

(iii) Earns wages that are at least ten percent higher than the statewide industry sector average and that equal or exceed:

(A) One hundred ten percent of the Nebraska average weekly wage if the job is in a county with a population of less than one hundred thousand inhabitants; or

(B) One hundred twenty percent of the Nebraska average weekly wage if the job is in a county with a population of one hundred thousand inhabitants or more;

(d) High-tech firm means a person or unitary group that has a location with any of the following four-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 2111, 3254, 3341, 3342, 3344, 3345, 3364, 5112, 5173, 5179, 5182, 5191, 5413, 5415, or 5417;

(e) Nebraska average weekly wage means the most recent average weekly wage paid by all employers in all counties in Nebraska as reported by the Department of Labor by October 1 of each year;

(f) New business means a person or unitary group participating in a tax incentive program that did not pay income taxes or wages in the state more than two years prior to submitting an application under the tax incentive program. For any tax incentive program without an application process, new business means a person or unitary group participating in the program that did not pay income taxes or wages in the state more than two years prior to the first day of the first tax year for which a tax benefit was earned;

(g) Renewable energy firm means a person or unitary group that has a location with any of the following six-digit code designations under the North American Industry Classification System as assigned by the Department of Labor: 111110, 111120, 111130, 111140, 111150, 111160, 111191, 111199, 111211, 111219, 111310, 111320, 111331, 111332, 111333, 111334, 111335, 111336, 111339, 111411, 111419, 111930, 111991, 113310, 221111, 221114, 221115, 221116, 221117, 221118, 221330, 237130, 237210, 237990, 325193, 325199, 331512, 331513, 331523, 331524, 331529, 332111, 332112, 333414, 333415, 333511, 333611, 333612, 333613, 334519, 485510, 541330, 541360, 541370, 541620, 541690, 541713, 541714, 541715, 561730, or 562213;

(h) Rural area means any village or city of the second class in this state or any county in this state with fewer than twenty-five thousand residents; and

(i) Unitary group has the same meaning as in section 77-2734.04.

Source: Laws 1992, LB 988, § 9; Laws 2003, LB 607, § 12; Laws 2013, LB39, § 7; Laws 2015, LB538, § 5; Laws 2018, LB936, § 1. Effective date July 19, 2018.

Cross References

Angel Investment Tax Credit Act, see section 77-6301.
 Beginning Farmer Tax Credit Act, see section 77-5201.
 Nebraska Advantage Act, see section 77-5701.
 Nebraska Advantage Microenterprise Tax Credit Act, see section 77-5901.
 Nebraska Advantage Research and Development Act, see section 77-5801.
 Nebraska Advantage Rural Development Act, see section 77-27,187.
 Nebraska Job Creation and Mainstreet Revitalization Act, see section 77-2901.
 Nebraska Workforce Innovation and Opportunity Act, see section 48-3301.
 New Markets Job Growth Investment Act, see section 77-1101.

50-1210 Report of findings and recommendations; distribution; confidentiality; agency response.

(1)(a) Upon completion of a performance audit, the office shall prepare a report of its findings and recommendations for action. Except as provided in subdivision (b) of this subsection, the Legislative Auditor shall provide the office's report concurrently to the committee, agency director, and Legislative Fiscal Analyst. The committee may, by majority vote, release the office's report or portions thereof to other individuals, with the stipulation that the released material shall be kept confidential.

(b) To protect taxpayer confidentiality, for tax incentive performance audits conducted under section 50-1209, the Legislative Auditor may provide the office's report to the agency director up to five business days prior to providing it to the committee and Legislative Fiscal Analyst.

(2) When the Legislative Auditor provides the report to the Legislative Fiscal Analyst, the Legislative Fiscal Analyst shall issue an opinion to the committee indicating whether the office's recommendations can be implemented by the agency within its current appropriation.

(3) When the Legislative Auditor provides the report to the agency, the agency shall have twenty business days from the date of receipt of the report to provide a written response. Any written response received from the agency shall be attached to the committee report. The agency shall not release any part of the report to any person outside the agency, except that an agency may discuss the report with the Governor. The Governor shall not release any part of the report.

(4) Following receipt of any written response from the agency, the Legislative Auditor shall prepare a brief written summary of the response, including a description of any significant disagreements the agency has with the office's report or recommendations.

Source: Laws 1992, LB 988, § 10; Laws 2003, LB 607, § 13; Laws 2006, LB 956, § 9; Laws 2012, LB782, § 79; Laws 2013, LB39, § 8; Laws 2015, LB538, § 6; Laws 2017, LB210, § 2.

50-1211 Committee; review materials; reports; public hearing; procedure.

(1) The committee shall review the office's report, the agency's response, the Legislative Auditor's summary of the agency's response, and the Legislative Fiscal Analyst's opinion prescribed in section 50-1210. The committee may amend and shall adopt or reject each recommendation in the report and indicate whether each recommendation can be implemented by the agency within its current appropriation. The adopted recommendations shall be incorporated into a committee report, which shall be approved by majority vote.

(2) The committee report shall include, but not be limited to, the office's report, the agency's written response to the report, the Legislative Auditor's summary of the agency response, the committee's recommendations, and any opinions of the Legislative Fiscal Analyst regarding whether the committee's recommendations can be implemented by the agency within its current appropriation.

(3) The committee may decide, by majority vote, to defer adoption of a committee report pending a public hearing. If the committee elects to schedule a public hearing, it shall release, for review by interested persons prior to the hearing, the office's report, the agency's response, the Legislative Auditor's summary of the agency's response, and any opinions of the Legislative Fiscal Analyst. The public hearing shall be held not less than ten nor more than twenty business days following release of the materials.

(4) When the committee elects to schedule a hearing, a summary of the testimony received at the hearing shall be attached to the committee report as an addendum. A transcript of the testimony received at the hearing shall be on file with the committee and available for public inspection. Unless the committee votes to delay release of the committee report, the report shall be released within forty business days after the public hearing.

(5) Once the committee has approved its report, the committee shall, by majority vote, cause the committee report to be released to all members of the Legislature and to the public. The report submitted to the members of the Legislature shall be submitted electronically. The committee may, by majority vote, release the committee report or portions thereof prior to public release of the report. Each tax incentive performance audit report shall also be presented

at a joint hearing of the Appropriations Committee and Revenue Committee of the Legislature.

Source: Laws 1992, LB 988, § 11; Laws 2003, LB 607, § 14; Laws 2006, LB 956, § 10; Laws 2012, LB782, § 80; Laws 2013, LB39, § 9; Laws 2015, LB538, § 7.

50-1212 Written implementation plan; duties.

(1) Within forty business days following the release of the committee report, the agency shall provide to the committee a written implementation plan describing the action planned and timeframe for accomplishment of each of the recommendations contained in the committee report, except that the committee may waive such requirement for tax incentive performance audits.

(2) The agency director shall make every effort to fully implement the recommendations that can be implemented within the limits of the agency's current appropriation. For those recommendations which require additional appropriations or the drafting of legislation, the committee shall work with the appropriate standing committee of the Legislature to ensure legislation is introduced.

(3) The Legislative Performance Audit Committee shall establish a system to ascertain and monitor agency conformity to the recommendations contained in the committee report and compliance with any statutory changes resulting from the report recommendations.

(4) Based on the tax incentive performance audit report, the Revenue Committee of the Legislature shall electronically report its recommendation about whether to extend the sunset date for the audited program to the Legislature by December 1 of the year prior to such program's sunset date.

Source: Laws 1992, LB 988, § 12; Laws 2003, LB 607, § 15; Laws 2015, LB538, § 8; Laws 2016, LB1022, § 1.

50-1213 Office; access to information and records; agency duties; prohibited acts; penalty; proceedings; not reviewable by court; committee or office employee; privilege; working papers; not public records.

(1) The office shall have access to any and all information and records, confidential or otherwise, of any agency, in whatever form they may be, including, but not limited to, direct access to all agency data bases containing relevant program information or data, unless the office is denied such access by federal law or explicitly named and denied such access by state law. If such a law exists, the agency shall provide the committee with a written explanation of its inability to produce such information and records and, after reasonable accommodations are made, shall grant the office access to all information and records or portions thereof that can legally be reviewed. Accommodations that may be negotiated between the agency and the committee include, but are not limited to, a requirement that specified information or records be reviewed on agency premises and a requirement that specified working papers be securely stored on agency premises.

(2) Upon receipt of a written request by the office for access to any information or records, the agency shall provide to the office as soon as is practicable and without delay, but not more than three business days after actual receipt of the request, either (a) the requested materials or (b)(i) if there is a legal basis

for refusal to comply with the request, a written denial of the request together with the information specified in subsection (1) of this section or (ii) if the entire request cannot with reasonable good faith efforts be fulfilled within three business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, and an opportunity for the office to modify or prioritize the items within the request. No delay due to the significant difficulty or the extensiveness of a request for access to information or records shall exceed three calendar weeks after actual receipt of such request by any agency. The three business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed.

(3) Except as provided in this section, any confidential information or confidential records shared with the office shall remain confidential and shall not be shared by an employee of the office with any person who is not an employee of the office, including any member of the committee.

(4) Except as provided in subsection (11) of section 77-2711 and subdivision (10)(d) of section 77-27,119, if any employee or former employee of the office knowingly divulges or makes known, in any manner not permitted by law, confidential information or confidential records, he or she shall be guilty of a Class III misdemeanor and, in the case of an employee, shall be dismissed.

(5) No proceeding of the committee or opinion or expression of any member of the committee or office employee acting at the direction of the committee shall be reviewable in any court. No member of the committee or office employee acting at the direction of the committee shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters relating to the work of the office except in a proceeding brought to enforce the Legislative Performance Audit Act.

(6) Pursuant to sections 84-712 and 84-712.01 and subdivision (5) of section 84-712.05, the working papers obtained or produced by the committee or office shall not be considered public records. The committee may make the working papers available for purposes of an external quality control review as required by generally accepted government auditing standards. However, any reports made from such external quality control review shall not make public any information which would be considered confidential when in the possession of the office.

Source: Laws 1992, LB 988, § 13; Laws 2003, LB 607, § 16; Laws 2006, LB 588, § 5; Laws 2013, LB39, § 10; Laws 2015, LB539, § 3; Laws 2016, LB1022, § 2.

50-1214 Names not included in documents, when; state employee; how treated; prohibited act; violation; penalty.

(1) By majority vote, the committee may decide not to include in any document that will be a public record the names of persons providing information to the office or committee.

(2) No employee of the State of Nebraska who provides information to the committee or office shall be subject to any personnel action, as defined in section 81-2703, in connection with his or her employment as a result of the provision of such information.

(3) Any person exercising his or her supervisory or managerial authority to recommend, approve, direct, or otherwise take or affect personnel action in violation of subsection (2) of this section shall be guilty of a Class III misdemeanor and shall be subject to personnel action up to and including dismissal from employment with the state.

Source: Laws 1992, LB 988, § 14; Laws 2003, LB 607, § 17; Laws 2006, LB 588, § 6; Laws 2013, LB39, § 11; Laws 2015, LB539, § 4.

50-1215 Violations; penalty.

Any person who willfully fails to comply with the provisions of section 50-1213 or who otherwise willfully obstructs or hinders the conduct of a performance audit or preaudit inquiry or who willfully misleads or attempts to mislead any person charged with the duty of conducting a performance audit or preaudit inquiry shall be guilty of a Class II misdemeanor.

Source: Laws 1992, LB 988, § 15; Laws 2003, LB 607, § 18; Laws 2006, LB 588, § 7; Laws 2015, LB539, § 5.

ARTICLE 13

REVIEW OF BOARDS AND COMMISSIONS

Section

50-1302. Government, Military and Veterans Affairs Committee; report.

50-1302 Government, Military and Veterans Affairs Committee; report.

(1) Every four years, beginning in 2008, the Government, Military and Veterans Affairs Committee of the Legislature shall prepare and publish a report pertaining to boards, commissions, and similar entities created by law that are made part of or are placed in the executive branch of state government. The committee may also include entities created by executive order or by an agency director. The report shall be submitted electronically to the Legislature on December 1 of such year.

(2) The report shall include, but not be limited to, the following:

(a) The name of each board, commission, or similar entity;

(b) The name of a parent agency, if any;

(c) The statutory citation or other authorization for the creation of the board, commission, or entity;

(d) The number of members of the board, commission, or entity and how the members are appointed;

(e) The qualifications for membership on the board, commission, or entity;

(f) The number of times the board, commission, or entity is required to meet during the year and the number of times it actually met;

(g) Budget information of the board, commission, or entity for the four most recently completed fiscal years; and

(h) A brief summary of the accomplishments of the board, commission, or entity for the past four years.

Source: Laws 1999, LB 298, § 2; Laws 2002, LB 93, § 4; Laws 2005, LB 241, § 1; Laws 2012, LB782, § 81.

ARTICLE 15

LEGISLATIVE QUALIFICATIONS AND ELECTION CONTESTS ACT

Section

- 50-1501. Act, how cited.
- 50-1502. Terms, defined.
- 50-1503. Applicability of act.
- 50-1504. Election contest; qualifications challenge.
- 50-1505. Unsuccessful candidate; rights.
- 50-1506. Election contest; qualifications challenge; when considered; provisions applicable.
- 50-1507. Election contest; qualifications challenge; respondent's rights; decision against member; effect.
- 50-1508. Burden of proof.
- 50-1509. Computation of time.
- 50-1510. Filings; service upon parties.
- 50-1511. Petition; personal service; contents.
- 50-1512. Petition; amendment; personal service.
- 50-1513. Bond.
- 50-1514. Respondent member; file response.
- 50-1515. Attorney's fees and costs.
- 50-1516. Election contest; grounds.
- 50-1517. Examination of ballots; procedure; certification.
- 50-1518. Writ; service; notice.
- 50-1519. Rules and procedures; examination of ballots; certificate; prima facie evidence.
- 50-1520. Jurisdiction to hear challenge.

50-1501 Act, how cited.

Sections 50-1501 to 50-1520 shall be known and may be cited as the Legislative Qualifications and Election Contests Act.

Source: Laws 2018, LB744, § 8.
Effective date July 19, 2018.

50-1502 Terms, defined.

For purposes of the Legislative Qualifications and Election Contests Act:

- (1) Committee means the committee of the Legislature designated by the Legislature to conduct proceedings regarding a petition filed under the act;
- (2) Petitioner means a candidate whose name appeared on the ballot at a general election to represent a legislative district as a member of the Legislature who files a petition under the act; and
- (3) Respondent member means a candidate proclaimed duly elected to represent the legislative district for which the petitioner was seeking election.

Source: Laws 2018, LB744, § 9.
Effective date July 19, 2018.

50-1503 Applicability of act.

The Legislative Qualifications and Election Contests Act applies to any contest of the election of a member of the Legislature and any challenge of the qualifications of a member of the Legislature.

Source: Laws 2018, LB744, § 10.
Effective date July 19, 2018.

50-1504 Election contest; qualifications challenge.

(1) An election contest pursuant to the Legislative Qualifications and Election Contests Act shall only determine which candidate was properly elected to the Legislature and is entitled to be seated. The election contest shall place in issue only the validity of the results of the election.

(2) A qualifications challenge pursuant to the act shall only determine whether a person elected to the Legislature is qualified to hold or retain the seat for which elected. The qualifications challenge shall place in issue only the qualifications of the person elected as a member of the Legislature under the Constitution of Nebraska.

Source: Laws 2018, LB744, § 11.
Effective date July 19, 2018.

50-1505 Unsuccessful candidate; rights.

Only an unsuccessful candidate whose name appeared on the ballot in the general election to represent a legislative district as a member of the Legislature may contest the election or challenge the qualifications of the person elected as a member of the Legislature to represent that legislative district.

Source: Laws 2018, LB744, § 12.
Effective date July 19, 2018.

50-1506 Election contest; qualifications challenge; when considered; provisions applicable.

(1) The contest of an election or challenge of the qualifications of a person elected as a member of the Legislature by an unsuccessful candidate shall be considered at the next regular session of the Legislature following the general election.

(2) The election contest or qualifications challenge shall be heard and determined in accordance with the Legislative Qualifications and Election Contests Act and the Rules of the Nebraska Unicameral Legislature.

Source: Laws 2018, LB744, § 13.
Effective date July 19, 2018.

50-1507 Election contest; qualifications challenge; respondent's rights; decision against member; effect.

When an election contest or qualifications challenge is pending pursuant to the Legislative Qualifications and Election Contests Act, the respondent member may qualify and take office at the time specified by law and exercise the duties of the office until the election contest or qualifications challenge is decided. If the election contest or qualifications challenge is decided against such member, the Legislature shall order him or her to give up the office to the petitioner in the election contest or qualifications challenge and deliver to the petitioner all books, records, papers, property, and effects pertaining to the office. The Legislature may enforce such order by attachment or other proper legal process.

Source: Laws 2018, LB744, § 14.
Effective date July 19, 2018.

50-1508 Burden of proof.

The petitioner shall have the burden of proving that the respondent member was not properly elected or qualified to hold office at the time of the election by clear and convincing evidence.

Source: Laws 2018, LB744, § 15.
Effective date July 19, 2018.

50-1509 Computation of time.

If the date for filing or completion of an act under the Legislative Qualifications and Election Contests Act falls on a Saturday, Sunday, or legal holiday, the next business day shall be the deadline for filing or completing the act.

Source: Laws 2018, LB744, § 16.
Effective date July 19, 2018.

50-1510 Filings; service upon parties.

All filings with the Clerk of the Legislature pursuant to the Legislative Qualifications and Election Contests Act, including pleadings, responses, and motions, shall be served upon each of the parties and shall contain a complete certificate of service.

Source: Laws 2018, LB744, § 17.
Effective date July 19, 2018.

50-1511 Petition; personal service; contents.

(1) A petition to contest the election or challenge the qualifications of a person elected as a member of the Legislature shall be filed with the Clerk of the Legislature within forty calendar days after the general election at which the respondent member was elected, and a copy of the petition shall be personally served on the respondent member. The petition shall be verified by affidavit swearing to the truth of the allegations or based on information and belief. The petitioner shall include with the petition filed with the Clerk of the Legislature proof of personal service upon the respondent member.

(2)(a) A petition to contest the election shall contain the names of the voters whose votes are contested, the grounds upon which such votes are illegal, a full statement of any other grounds upon which the election is contested, and the standing of the petitioner to contest the election.

(b) A petition to challenge qualifications shall contain the constitutional grounds on which the respondent member is alleged to be unqualified and the standing of the petitioner to challenge the respondent member's qualifications.

Source: Laws 2018, LB744, § 18.
Effective date July 19, 2018.

50-1512 Petition; amendment; personal service.

(1) A petition to contest the election or challenge the qualifications of a member shall only be amended once within the time period for filing the initial petition under section 50-1511. An amended petition shall be filed with the Clerk of the Legislature and personally served on the respondent member and shall meet all the elements required for an initial petition.

(2) A petition which is filed or amended after the filing deadline in section 50-1511 or which fails to meet any of the requirements of the Legislative

Qualifications and Election Contests Act shall be void, and any rights related thereto shall expire by operation of law.

Source: Laws 2018, LB744, § 19.

Effective date July 19, 2018.

50-1513 Bond.

The petitioner shall file with the Clerk of the Legislature, within five calendar days after filing the petition pursuant to section 50-1511, a bond with security approved by the Clerk of the Legislature conditioned to pay all costs incurred by the Legislature if the election is confirmed or the qualifications of the respondent member are confirmed. The bond shall be in an amount of at least ten thousand dollars as determined by the Clerk of the Legislature. If the Clerk of the Legislature determines that the bond is inadequate, he or she may order an increase in the amount of the bond at any stage of the proceedings.

Source: Laws 2018, LB744, § 20.

Effective date July 19, 2018.

50-1514 Respondent member; file response.

The respondent member may file a response to the petition filed pursuant to section 50-1511 with the Clerk of the Legislature within ten calendar days after receipt of service of the petition. If the respondent member files a response, he or she shall also serve a copy of the response on the petitioner within such ten-day period.

Source: Laws 2018, LB744, § 21.

Effective date July 19, 2018.

50-1515 Attorney's fees and costs.

The prevailing party may request from the opposing party or the state the recovery of attorney's fees and costs incurred in bringing or defending a petition to contest an election or challenge qualifications under the Legislative Qualifications and Election Contests Act. The request shall be filed with the Clerk of the Legislature within fifteen calendar days after the filing of the final report regarding the petition. The request shall include a detailed report of attorney's fees and costs incurred by the prevailing party. The committee may decide that the prevailing party should receive attorney's fees and costs. Any sum awarded shall be reasonable, just, and proper.

Source: Laws 2018, LB744, § 22.

Effective date July 19, 2018.

50-1516 Election contest; grounds.

(1) The election of a person to represent a legislative district as a member of the Legislature may be contested for any or all of the following grounds:

(a) For misconduct, fraud, or corruption on the part of an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk sufficient to change the result;

(b) If the respondent member has given or offered to any voter or an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election

commissioner or county clerk any bribe or reward in money, property, or thing of value for the purpose of procuring his or her election;

(c) If illegal votes have been received or legal votes rejected at the polls sufficient to change the results;

(d) For any error of any board of canvassers in counting the votes or in declaring the result of the election if the error would change the result;

(e) If the respondent member is in default as a collector and custodian of public money or property; or

(f) For any other cause which shows that another person was legally elected.

(2) When the misconduct is on the part of an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk, it shall be insufficient to set aside the election unless the vote of the county or precinct would change the result as to that office.

Source: Laws 2018, LB744, § 23.

Effective date July 19, 2018.

50-1517 Examination of ballots; procedure; certification.

The Legislature or the committee before which a contested election is pending may issue a writ to the election commissioner or county clerk of the county in which the contested election was held commanding him or her to open, count, compare with the list of voters, and examine in his or her office the ballots which were cast at the election in contest and to certify the result of such count, comparison, and examination to the Legislature.

Source: Laws 2018, LB744, § 24.

Effective date July 19, 2018.

50-1518 Writ; service; notice.

Any writ issued pursuant to section 50-1517 shall be served without delay on the election commissioner or county clerk by the sheriff of his or her county. The election commissioner or county clerk shall at once fix a day, not more than thirty calendar days after the date of the receipt of such writ, on which he or she will proceed to open such ballots and shall cause notice in writing of the day so fixed to be served on the petitioner or his or her attorney and the respondent member or his or her attorney at least five calendar days before such day. Such notice may be served in the manner provided in section 25-505.01.

Source: Laws 2018, LB744, § 25.

Effective date July 19, 2018.

50-1519 Rules and procedures; examination of ballots; certificate; prima facie evidence.

(1) The Legislature may establish rules and procedures for the recount of ballots. Such rules and procedures may provide for delivery by the election commissioner or county clerk, to the Legislature or the committee, of the ballots or notarized copies of the ballots which were cast at the election in contest. The Legislature shall return such ballots or notarized copies of such ballots to the election commissioner or county clerk at the conclusion of the election contest.

(2) The election commissioner or county clerk shall permit the petitioner, the respondent member, and the attorneys for the parties to fully examine the ballots. The election commissioner or county clerk shall make return to the writ, under his or her hand and official seal, of all the facts which either of the parties may desire and which appear from the ballots to affect or relate to the contested election. After the examination of the ballots is completed, the election commissioner or county clerk shall again securely seal the ballots as they were and preserve and destroy them as provided by law in the same manner as if they had not been opened. The certificate of the election commissioner or county clerk certifying the total number of votes received by a candidate shall be prima facie evidence of the facts stated in the certificate, but the persons present at the examination of the ballots may be heard as witnesses to contradict the certificate.

Source: Laws 2018, LB744, § 26.
Effective date July 19, 2018.

50-1520 Jurisdiction to hear challenge.

Pursuant to Article III, section 10, of the Constitution of Nebraska, the Legislature is vested with the jurisdiction to hear any challenge to the qualifications of a member of the Legislature and is the judge of the elections, returns, and qualifications of its members.

Source: Laws 2018, LB744, § 27.
Effective date July 19, 2018.

CHAPTER 51

LIBRARIES AND MUSEUMS

Article.

2. Public Libraries. 51-211.

ARTICLE 2

PUBLIC LIBRARIES

Section

51-211. Library board; general powers and duties; governing body; duty; discrimination prohibited.

51-211 Library board; general powers and duties; governing body; duty; discrimination prohibited.

(1) The library board may erect, lease, or occupy an appropriate building for the use of a library, appoint a suitable librarian and assistants, fix the compensation of such appointees, and remove such appointees at the pleasure of the board. The governing body of the county, city, or village in which the library is located shall approve any personnel administrative or compensation policy or procedure before implementation of such policy or procedure by the library board.

(2) The library board may establish rules and regulations for the government of such library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency. The library board may fix and impose, by general rules, penalties and forfeitures for trespasses upon or injury to the library grounds, rooms, books, or other property, for failure to return any book, or for violation of any bylaw, rule, or regulation and fix and impose reasonable fees, not to exceed the library's actual cost, for nonbasic services. The board shall have and exercise such power as may be necessary to carry out the spirit and intent of sections 51-201 to 51-219 in establishing and maintaining a public library and reading room.

(3) The public library shall make its basic services available without charge to all residents of the political subdivision which supplies its tax support.

(4) No service shall be denied to any person because of race, sex, religion, age, color, national origin, ancestry, physical handicap, or marital status.

Source: Laws 1911, c. 73, § 6, p. 316; R.S.1913, § 3797; Laws 1917, c. 86, § 1, p. 223; C.S.1922, § 3190; C.S.1929, § 51-206; R.S.1943, § 51-211; Laws 1990, LB 1236, § 2; Laws 1997, LB 250, § 2; Laws 2012, LB470, § 2.

CHAPTER 52

LIENS

Article.

1. Construction Lien.
 - (b) Nebraska Construction Lien Act. 52-158.
2. Artisan's Lien. 52-203, 52-204.
5. Thresher's Lien. 52-501, 52-504.
6. Lien for Services Performed Upon Personal Property. 52-603, 52-604.
7. Veterinarian's Lien. 52-701, 52-702.
9. Petroleum Products Lien. 52-903, 52-905.
10. Uniform Federal Lien Registration Act. 52-1004.
11. Fertilizer and Agricultural Chemical Liens. 52-1103, 52-1104.
12. Seed or Electrical Power and Energy Liens. 52-1203, 52-1205.
13. Filing System for Farm Product Security Interests. 52-1307 to 52-1318.
14. Agricultural Production Liens. 52-1407, 52-1409.
16. Master Lien List. 52-1601 to 52-1603.
19. Nonconsensual Common-Law Liens. 52-1901 to 52-1907.
20. Homeowners' Association. 52-2001.
21. Commercial Real Estate Broker Lien Act. 52-2101 to 52-2108.
22. Continuation Statements. 52-2201.

ARTICLE 1

CONSTRUCTION LIEN

(b) NEBRASKA CONSTRUCTION LIEN ACT

Section

52-158. Repealed. Laws 2011, LB 3, § 1.

(b) NEBRASKA CONSTRUCTION LIEN ACT

52-158 Repealed. Laws 2011, LB 3, § 1.

ARTICLE 2

ARTISAN'S LIEN

Section

52-203. Lien; effect; priority; limitation; enforcement; fee.

52-204. Lien satisfied; financing statement; termination.

52-203 Lien; effect; priority; limitation; enforcement; fee.

A lien created under section 52-202 is in force from and after the date it is filed and is prior and paramount to all other liens upon such property except those previously filed against such property. Such lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code, except that such enforcement proceedings shall be instituted within one year after the filing of such lien. The lien is subject to the rights of purchasers of the property against which the lien is filed when the purchasers acquired the property prior to the filing of the lien without knowledge or notice of the rights

of the persons performing the work or furnishing material. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code. Effective January 1, 2015, this section applies to a lien created under section 52-202 regardless of when the lien was created.

Source: Laws 1913, c. 123, § 3, p. 311; R.S.1913, § 3843; C.S.1922, § 3227; C.S.1929, § 52-203; R.S.1943, § 52-203; Laws 1969, c. 436, § 1, p. 1463; Laws 1984, LB 808, § 1; Laws 1998, LB 1321, § 80; Laws 1999, LB 550, § 11; Laws 2001, LB 54, § 2; Laws 2014, LB750, § 2.

52-204 Lien satisfied; financing statement; termination.

When a lien created under section 52-202 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1988, LB 943, § 2; Laws 1999, LB 550, § 12; Laws 2001, LB 54, § 3; Laws 2014, LB750, § 3.

ARTICLE 5

THRESHER'S LIEN

Section

- 52-501. Thresher's, combiner's, cornsheller's, or mechanical cornpicker's lien; perfection; financing statement; filing; enforcement; fee.
52-504. Lien satisfied; financing statement; termination.

52-501 Thresher's, combiner's, cornsheller's, or mechanical cornpicker's lien; perfection; financing statement; filing; enforcement; fee.

(1)(a) The owner or operator of any threshing machine or combine used in threshing, combining, or hulling grain or seed, (b) the owner or operator of any mechanical cornpicker or mechanical cornhusker used in picking or husking corn, and (c) the owner or operator of any cornsheller used in shelling corn shall have and hold a lien upon such grain, seed, or corn which he or she shall thresh, combine, hull, pick, husk, or shell with such machine to secure the payment to him or her of the charges agreed upon by the person for whom the threshing, combining, hulling, picking, husking, or shelling was done or, if no charges are agreed upon, for such charges as may be reasonable for such threshing, combining, hulling, picking, husking, or shelling.

(2) A lien created under this section shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall contain or have attached thereto (a) the name and address and the social security number or federal tax identification number of the owner or operator claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person for whom the threshing, combining, hulling, picking, husking, or shelling was done, (c) the amount due for such threshing, combining, hulling, picking, husking, or shelling, (d) the amount of grain, seed, or corn covered by the lien, (e) the place where the grain, seed, or corn is located, and (f) the date on which the threshing, combining, hulling, picking, husking, or shelling was done. Such financing statement shall be filed within thirty days after the threshing, combining, hulling, picking, husking, or shelling was done. The failure to include the social security number or federal tax identification number shall not render any

filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the threshing, combining, hulling, picking, husking, or shelling was done.

(3) In the event the person for whom the threshing, combining, hulling, picking, husking, or shelling was done desires to sell or deliver the grain, seed, or corn so threshed, combined, hulled, picked, husked, or shelled to a grain elevator or to any other person, such person desiring to sell or deliver the grain, seed, or corn shall notify the consignee or purchaser that the threshing, combining, hulling, picking, husking, or shelling bill has not been paid, and the lien created under this section on such grain, seed, or corn shall shift to the purchase price thereof in the hands of the purchaser or consignee. In the event the grain, seed, or corn is sold or consigned with the consent or knowledge of the person entitled to a lien created under this section within thirty days after the date of such threshing, combining, hulling, picking, husking, or shelling, such lien shall not attach to the grain, seed, or corn or to the purchase price thereof unless the person entitled to the lien notifies the purchaser in writing of the lien.

(4) A lien created under this section shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code, except that such enforcement shall be instituted within thirty days after the filing of the lien. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(5) Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Source: Laws 1923, c. 117, § 1, p. 278; C.S.1929, § 52-501; Laws 1939, c. 83, § 1, p. 266; C.S.Supp.,1941, § 52-501; R.S.1943, § 52-501; Laws 1945, c. 126, § 1, p. 406; Laws 1961, c. 257, § 5, p. 755; Laws 1965, c. 317, § 1, p. 883; Laws 1969, c. 436, § 3, p. 1463; Laws 1984, LB 808, § 2; Laws 1988, LB 943, § 3; Laws 1998, LB 1321, § 81; Laws 1999, LB 550, § 14; Laws 2001, LB 54, § 4; Laws 2014, LB750, § 4.

52-504 Lien satisfied; financing statement; termination.

When a lien created under section 52-501 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 11; Laws 1988, LB 943, § 4; Laws 1999, LB 550, § 15; Laws 2001, LB 54, § 6; Laws 2014, LB750, § 5.

ARTICLE 6

LIEN FOR SERVICES PERFORMED UPON PERSONAL PROPERTY

Section

52-603. Lien; how satisfied; sale.

52-604. Sale; proceeds; distribution.

52-603 Lien; how satisfied; sale.

In accordance with the terms of the notice given as provided by section 52-601.01, a sale of the goods for reasonable value may be had to satisfy any

valid claim of the claimant for which the claimant has a lien on the goods. Such sale shall extinguish any lien or security interest in the goods of a lienholder or security interest holder to which notice of sale was mailed pursuant to section 52-601.01.

Source: Laws 1923, c. 118, § 3, p. 281; C.S.1929, § 52-603; R.S.1943, § 52-603; Laws 1974, LB 960, § 2; Laws 2014, LB851, § 2.

52-604 Sale; proceeds; distribution.

From the proceeds of such sale the claimant shall make application in the following order: (1) To satisfy his or her lien, including the reasonable charges of notice, advertisement, and sale; and (2) to satisfy the obligations secured by the lien or security interest of any lienholder or security interest holder of record. The balance, if any, of such proceeds shall be delivered to the county treasurer of the county in which the sale was made. The treasurer of the county in which the property was sold shall issue his or her receipt for the balance of such proceeds. The county treasurer shall make proper entry in the books of his or her office of all such proceeds paid over to him or her, and shall hold the money for a period of five years, and immediately thereafter pay the same into the school fund of the proper county, to be appropriated for the support of the schools, unless the owner of the property sold, his or her legal representatives, or any lienholder or security interest holder of record whose lien or security interest has not previously been satisfied shall, within such period of five years after such proceeds have been deposited with the treasurer, furnish satisfactory evidence of the ownership of such property or satisfactory evidence of the lien or security interest, in which event he, she, or they shall be entitled to receive from the county treasurer the amount so deposited with him or her.

Source: Laws 1923, c. 118, § 4, p. 281; C.S.1929, § 52-604; R.S.1943, § 52-604; Laws 1974, LB 960, § 3; Laws 2005, LB 82, § 1; Laws 2014, LB851, § 3.

ARTICLE 7

VETERINARIAN'S LIEN

Section

52-701. Lien; perfection; financing statement; filing; enforcement; fee.

52-702. Lien satisfied; financing statement; termination.

52-701 Lien; perfection; financing statement; filing; enforcement; fee.

Whenever any person procures, contracts with, or hires any person licensed to practice veterinary medicine and surgery to treat, relieve, or in any way take care of any kind of livestock, such veterinarian shall have a first, paramount, and prior lien upon such livestock so treated for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of the services and any medicines or biologics furnished. A lien created under this section shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. A lien created under this section shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall be filed within ninety days after the furnishing of the services and any medicines or biologics and shall contain or

have attached thereto (1) the name and address and the social security number or federal tax identification number of the veterinarian claiming the lien, (2) the name and address and the social security number or federal tax identification number, if known, of the person to whom the services and medicines or biologics were furnished, (3) a correct description of the livestock to be charged with the lien, and (4) the amount of the services and any medicines or biologics furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the services and medicines or biologics were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code. Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Source: Laws 1935, c. 117, § 1, p. 432; C.S.Supp.,1941, § 52-701; R.S. 1943, § 52-701; Laws 1969, c. 436, § 4, p. 1465; Laws 1984, LB 808, § 3; Laws 1988, LB 943, § 5; Laws 1998, LB 1321, § 82; Laws 1999, LB 550, § 16; Laws 2001, LB 54, § 7; Laws 2014, LB750, § 6.

52-702 Lien satisfied; financing statement; termination.

When a lien created under section 52-701 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 12; Laws 1988, LB 943, § 6; Laws 1999, LB 550, § 17; Laws 2001, LB 54, § 8; Laws 2014, LB750, § 7.

ARTICLE 9

PETROLEUM PRODUCTS LIEN

Section

52-903. Lien; effect of filing; sale of crop, effect; enforcement.

52-905. Lien satisfied; financing statement; termination.

52-903 Lien; effect of filing; sale of crop, effect; enforcement.

From and after the date of the filing of the lien as provided in section 52-902, the person claiming the lien shall have a lien upon the crops produced and owned by the person to whom the fuel or lubricant was furnished to the amount of the purchase price of such fuel or lubricant so furnished to such person. In the event the person to whom such fuel or lubricant was furnished desires to sell or deliver any portion of the crops so produced, such person shall notify the purchaser or consignee that such fuel or lubricant bill has not been paid. Such lien shall shift to the purchase price thereof in the hands of such purchaser or consignee. In the event any portion of such crops is sold or consigned with the consent or knowledge of the person entitled to a lien thereon within six months after the date such fuel or lubricant was furnished, such lien shall not attach to any portion of such crops or to the purchase price thereof unless the person entitled to such lien notifies the purchaser in writing thereof. A lien created under section 52-901 shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code,

except that such enforcement proceedings shall be instituted within ninety days after the filing of the lien. Effective January 1, 2015, this section applies to a lien created under section 52-901 regardless of when the lien was created.

Source: Laws 1957, c. 226, § 3, p. 776; Laws 1969, c. 436, § 5, p. 1465; Laws 1987, LB 314, § 1; Laws 1999, LB 550, § 19; Laws 2001, LB 54, § 11; Laws 2014, LB750, § 8.

52-905 Lien satisfied; financing statement; termination.

When a lien created under section 52-901 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 13; Laws 1988, LB 943, § 8; Laws 1999, LB 550, § 20; Laws 2001, LB 54, § 13; Laws 2014, LB750, § 9.

ARTICLE 10

UNIFORM FEDERAL LIEN REGISTRATION ACT

Section

52-1004. Notice; filing; fees; billing.

52-1004 Notice; filing; fees; billing.

(1) The uniform fee, payable to the Secretary of State, for presenting for filing and indexing and for filing and indexing each notice of lien or certificate or notice affecting the lien pursuant to the Uniform Federal Lien Registration Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subsection (1) of section 52-1001 shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall deposit each fee received pursuant to this subsection in the Uniform Commercial Code Cash Fund. Of the fees received and deposited pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subsection (1) of section 52-1001.

(2) The Secretary of State shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents presented or filed by them.

Source: Laws 1969, c. 433, § 4, p. 1458; Laws 1984, LB 808, § 5; Laws 1988, LB 933, § 6; Laws 1998, LB 1321, § 86; Laws 1999, LB 550, § 23; Laws 2012, LB14, § 5; Laws 2017, LB152, § 3; Laws 2017, LB268, § 9.

ARTICLE 11

FERTILIZER AND AGRICULTURAL CHEMICAL LIENS

Section

52-1103. Lien; time for filing; date of attachment; enforcement.

52-1104. Lien satisfied; financing statement; termination.

52-1103 Lien; time for filing; date of attachment; enforcement.

In order to be valid against subsequent lienholders, any lien created under section 52-1101 shall be filed within sixty days after the last date upon which the product, machinery, or equipment was furnished or work or labor was performed under the contract, but in no event shall it have priority over prior lienholders unless prior lienholders have agreed to the contract in writing. Such lien shall attach as of the date of filing. Such lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. Effective January 1, 2015, this section applies to a lien created under section 52-1101 regardless of when the lien was created.

Source: Laws 1977, LB 218, § 3; Laws 1999, LB 550, § 27; Laws 2001, LB 54, § 16; Laws 2014, LB750, § 10.

52-1104 Lien satisfied; financing statement; termination.

When a lien created under section 52-1101 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 15; Laws 1988, LB 943, § 10; Laws 1999, LB 550, § 28; Laws 2001, LB 54, § 17; Laws 2014, LB750, § 11.

ARTICLE 12

SEED OR ELECTRICAL POWER AND ENERGY LIENS

Section

52-1203. Lien; date of attachment; enforcement.

52-1205. Lien satisfied; financing statement; termination.

52-1203 Lien; date of attachment; enforcement.

A lien created under section 52-1201 shall attach on the date of filing and time thereof if shown. Such lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. Effective January 1, 2015, this section applies to a lien created under section 52-1201 regardless of when the lien was created.

Source: Laws 1985, LB 503, § 3; Laws 1999, LB 550, § 30; Laws 2001, LB 54, § 20; Laws 2014, LB750, § 12.

52-1205 Lien satisfied; financing statement; termination.

When a lien created under section 52-1201 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1988, LB 943, § 12; Laws 1999, LB 550, § 31; Laws 2001, LB 54, § 22; Laws 2014, LB750, § 13.

ARTICLE 13

FILING SYSTEM FOR FARM PRODUCT SECURITY INTERESTS

Section

52-1307. Effective financing statement, defined.

Section

- 52-1308. Farm product, defined.
 52-1312. Central filing system; Secretary of State; duties; system requirements; fees.
 52-1313.01. Effective financing statements; electronic access; fees.
 52-1317. Verification of security interest; seller; duty.
 52-1318. Rules and regulations; federal provisions adopted; Secretary of State; duties.

52-1307 Effective financing statement, defined.

Effective financing statement means a statement that:

- (1) Is an original or reproduced copy thereof;
- (2) Is filed by the secured party in the office of the Secretary of State;
- (3) Is signed, authorized, or otherwise authenticated by the debtor, unless filed electronically, in which case the signature of the debtor shall not be required;
- (4) Contains (a) the name and address of the secured party, (b) the name and address of the debtor, (c) the approved unique identifier of the debtor, (d) a description of the farm products subject to the security interest, (e) each county in Nebraska where the farm product is produced or located, (f) crop year unless every crop of the farm product in question, for the duration of the effective financing statement, is to be subject to the particular security interest, (g) further details of the farm product subject to the security interest if needed to distinguish it from other quantities of such product owned by the same person or persons but not subject to the particular security interest, and (h) such other information that the Secretary of State may require to comply with section 1324 of the Food Security Act of 1985, Public Law 99-198, or to more efficiently carry out his or her duties under sections 52-1301 to 52-1322;
- (5) Shall be amended in writing, within three months, and signed, authorized, or otherwise authenticated by the debtor and filed, to reflect material changes. A change in the name or address of the secured party shall not constitute a material change. If the statement is filed electronically, the signature of the debtor shall not be required;
- (6) Remains effective for a period of five years from the date of filing, subject to extensions for additional periods of five years each by refileing or filing a continuation statement within six months before the expiration of the five-year period;
- (7) Lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement is terminated, whichever occurs first;
- (8) Is accompanied by the requisite filing fee set by section 52-1313; and
- (9) Substantially complies with the requirements of this section even though the statement contains minor errors that are not seriously misleading.

An effective financing statement properly filed with a social security number or an Internal Revenue Service taxpayer identification number shall maintain its effectiveness regardless that such numbers are not required on such statement.

An effective financing statement may, for any given debtor or debtors, cover more than one farm product located in more than one county.

Source: Laws 1986, Third Spec. Sess., LB 1, § 7; Laws 1998, LB 924, § 20; Laws 1998, LB 1321, § 90; Laws 1999, LB 552, § 1; Laws 2002, LB 1105, § 439; Laws 2003, LB 4, § 2; Laws 2007, LB124, § 61; Laws 2015, LB464, § 1; Laws 2017, LB142, § 1.

52-1308 Farm product, defined.

Farm product shall mean an agricultural commodity, a species of livestock used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state, that is in the possession of a person engaged in farming operations. Farm products shall include, but are not limited to, apples, artichokes, asparagus, barley, bees, buffalo, bull semen, cantaloupe, carrots, cattle and calves, chickens, corn, cucumbers, dry beans, eggs, embryos or genetic products, emu, fish, flax seed, grapes, hay, hogs, honey, honeydew melon, horses, llamas, milk, millet, muskmelon, oats, onions, ostrich, popcorn, potatoes, pumpkins, raspberries, rye, safflower, seed crops, sheep and lambs, silage, sorghum grain, soybeans, squash, strawberries, sugar beets, sunflower seeds, sweet corn, tomatoes, trees, triticale, turkeys, vetch, walnuts, watermelon, wheat, and wool. The Secretary of State may, by rule and regulation, add other farm products to the list specified in this section if such products are covered by the general definition provided by this section.

Source: Laws 1986, Third Spec. Sess., LB 1, § 8; Laws 2007, LB124, § 62; Laws 2016, LB1035, § 1.

52-1312 Central filing system; Secretary of State; duties; system requirements; fees.

The Secretary of State shall design and implement a central filing system for effective financing statements. The Secretary of State shall be the system operator. The system shall provide a means for filing effective financing statements or notices of such financing statements on a statewide basis. The system shall include requirements:

(1) That an effective financing statement or notice of such financing statement shall be filed in the office of the Secretary of State. A debtor's residence shall be presumed to be the residence shown on the filing. The showing of an improper residence shall not affect the validity of the filing. The filing officer shall mark the statement or notice with a consecutive file number and with the date and hour of filing and shall hold the statement or notice or a microfilm or other digital copy thereof for public inspection. In addition, the filing officer shall index the statements and notices according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement;

(2) That the Secretary of State compile information from all effective financing statements or notices filed with the Secretary of State into a master list (a) organized according to farm product, (b) arranged within each such product (i) in alphabetical order according to the last name of the individual debtors or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors, (ii) in numerical order according to the approved unique identifier of the debtors, (iii) geographically by county, and (iv) by crop year, and (c) containing the information referred to in subdivision (4) of section 52-1307;

(3) That the Secretary of State cause the information on the master list to be published in lists (a) by farm product arranged alphabetically by debtor and (b) by farm product arranged numerically by the debtor's approved unique identifier. If a registered buyer so requests, the list or lists for such buyer may be limited to any county or group of counties where the farm product is produced or located or to any crop year or years or a combination of such identifiers;

(4) That all buyers of farm products, commission merchants, selling agents, and other persons may register with the Secretary of State to receive or obtain lists described in subdivision (3) of this section. Any buyer of farm products, commission merchant, selling agent, or other person conducting business from multiple locations shall be considered as one entity. Such registration shall be on an annual basis. The Secretary of State shall provide the form for registration which shall include the name and address of the registrant and the list or lists described in subdivision (3) of this section which such registrant desires to receive or obtain. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee. The fee for annual registration shall be thirty dollars.

A registrant shall pay an additional annual fee to receive or obtain lists described in subdivision (3) of this section. For each farm product list, the fee shall be an amount determined by the Secretary of State not to exceed two hundred dollars per year.

The Secretary of State shall maintain a record of the registrants and the lists and contents of the lists received or obtained by the registrants for a period of five years;

(5) That the lists as identified pursuant to subdivision (4) of this section be distributed or published by the Secretary of State not more often than once every month and not less often than once every three months as determined by the Secretary of State. The Secretary of State may provide for the distribution or publication of the lists on any medium and establish reasonable charges for such lists, not to exceed the charges provided for in subdivision (4) of this section.

The Secretary of State shall, by rule and regulation, establish the dates upon which the distributions or publications will be made, the dates after which a filing of an effective financing statement will not be reflected on the next distribution or publication of lists, and the dates by which a registrant must complete a registration to receive or obtain the next list; and

(6) That the Secretary of State remove lapsed and terminated effective financing statements or notices of such financing statements from the master list prior to preparation of the lists required to be distributed or published by subdivision (5) of this section.

Effective financing statements or any amendments or continuations of effective financing statements originally filed in the office of the county clerk that have been indexed and entered on the Secretary of State's central filing system need not be retained by the county filing office and may be disposed of or destroyed.

The Secretary of State shall apply to the Secretary of the United States Department of Agriculture for (a) certification of the central filing system and (b) approval of the system or method of selecting an approved unique identifier.

The Secretary of State shall deposit any funds received pursuant to subdivision (4) of this section in the Uniform Commercial Code Cash Fund.

Source: Laws 1986, Third Spec. Sess., LB 1, § 12; Laws 1988, LB 943, § 13; Laws 1998, LB 924, § 21; Laws 1998, LB 1321, § 91; Laws 2005, LB 451, § 1; Laws 2007, LB124, § 63; Laws 2015, LB464, § 2; Laws 2016, LB1035, § 2.

52-1313.01 Effective financing statements; electronic access; fees.

(1) The record of effective financing statements maintained by the Secretary of State may be made available electronically through the portal established under section 84-1204. For batch requests, there shall be a fee of two dollars per requested effective financing statement record accessed through the portal, except that the fee for a batch request for one thousand or more effective financing statements shall be two thousand dollars. Effective financing statement data accessed through the portal shall be for informational purposes only and shall not provide the protection afforded a buyer registered pursuant to section 52-1312.

(2) All fees collected pursuant to this section shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the Secretary of State.

Source: Laws 1998, LB 924, § 23; Laws 2012, LB719, § 3.

52-1317 Verification of security interest; seller; duty.

In order to verify the existence or nonexistence of a security interest, a buyer, commission merchant, or selling agent may request a seller to disclose such seller's approved unique identifier.

Source: Laws 1986, Third Spec. Sess., LB 1, § 17; Laws 2007, LB124, § 67; Laws 2015, LB464, § 3.

52-1318 Rules and regulations; federal provisions adopted; Secretary of State; duties.

(1) The State of Nebraska hereby adopts the federal rules and regulations adopted and promulgated to implement section 1324 of the Food Security Act of 1985, Public Law 99-198. If there is a conflict between such rules and regulations and sections 52-1301 to 52-1322, the federal rules and regulations shall apply.

(2) The Secretary of State shall adopt and promulgate rules and regulations necessary to implement sections 52-1301 to 52-1322 pursuant to the Administrative Procedure Act. If necessary to obtain federal certification of the central filing system, additional or alternative requirements made in conformity with section 1324 of the Food Security Act of 1985, Public Law 99-198, may be imposed by the Secretary of State by rule and regulation.

(3) The Secretary of State shall prescribe all forms to be used for filing effective financing statements and subsequent actions.

Source: Laws 1986, Third Spec. Sess., LB 1, § 18; Laws 1998, LB 924, § 24; Laws 2003, LB 4, § 4; Laws 2007, LB124, § 68; Laws 2016, LB1035, § 3.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 14

AGRICULTURAL PRODUCTION LIENS

Section
52-1407. Lien; perfection; financing statement; filing; priority; enforcement; fee.

Section

52-1409. Lien satisfied; financing statement; termination.

52-1407 Lien; perfection; financing statement; filing; priority; enforcement; fee.

(1) An agricultural production input lien shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall contain or have attached thereto the information required in subsection (2) of section 52-1402 and shall be filed within three months after the last date that the agricultural production input was furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. Perfection occurs as of the date such financing statement is filed.

(2) An agricultural production input lien that is not perfected has the priority of an unperfected security interest under section 9-322, Uniform Commercial Code.

(3) An agricultural production input lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. For purposes of enforcement of the lien, the lienholder is the secured party and the person to whom the agricultural production input was furnished is the debtor, and each has the respective rights and duties of a secured party and a debtor under article 9, Uniform Commercial Code.

(4) The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(5) Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Source: Laws 1987, LB 101, § 7; Laws 1988, LB 943, § 16; Laws 1999, LB 550, § 32; Laws 2001, LB 54, § 23; Laws 2014, LB750, § 14.

52-1409 Lien satisfied; financing statement; termination.

When an agricultural production input lien is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1987, LB 101, § 9; Laws 1988, LB 943, § 17; Laws 1999, LB 550, § 33; Laws 2001, LB 54, § 24; Laws 2014, LB750, § 15.

ARTICLE 16

MASTER LIEN LIST

Section

52-1601. Master lien list; Secretary of State; compilation.

52-1602. Master lien list; distribution or publication; registration to receive or obtain list; fee.

52-1603. Buyer of farm products; purchase subject to lien; when; waiver or release of lien.

52-1601 Master lien list; Secretary of State; compilation.

The Secretary of State shall compile lien information relative to liens created under Chapter 52, articles 2, 5, 7, 9, 11, 12, and 14, and Chapter 54, article 2,

received by his or her office pursuant to subsection (a) of section 9-530, Uniform Commercial Code, into a master lien list in alphabetical order according to the last name of the individual against whom such lien is filed or, in the case of an entity doing business other than as an individual, the first word in the name of the debtor. Such master lien list shall contain the name and address of the debtor, the name and address of the lienholder, and the type of such lien.

Source: Laws 1988, LB 987, § 1; Laws 1999, LB 550, § 34; Laws 2002, LB 957, § 24; Laws 2016, LB1035, § 4.

52-1602 Master lien list; distribution or publication; registration to receive or obtain list; fee.

(1) The master lien list prescribed in section 52-1601 shall be distributed or published by the Secretary of State not more often than once every month and not less often than once every three months on the date corresponding to the date on which the lists provided pursuant to sections 52-1301 to 52-1322 are distributed or published.

(2) Any person may register with the Secretary of State to receive or obtain the master lien list prescribed in section 52-1601. Such registration shall be on an annual basis. The Secretary of State shall provide the form for registration. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee. The fee for annual registration shall be thirty dollars, except that a registrant under sections 52-1301 to 52-1322 shall not be required to pay the registration fee provided by this section in addition to the registration fee paid pursuant to sections 52-1301 to 52-1322 for the same annual registration period. A registrant under sections 52-1601 to 52-1605 shall pay an additional annual fee to receive or obtain the master lien lists prescribed in section 52-1601. For each master lien list, the fee shall be an amount determined by the Secretary of State not to exceed two hundred dollars per year. The Secretary of State may provide for the distribution or publication of master lien lists on any medium and may establish reasonable charges for such lists, not to exceed the charges provided for in this subsection.

(3) The Secretary of State, by rule and regulation, shall establish the dates after which a filing of liens will not be reflected on the next distribution or publication of the master lien list and the date by which a registrant shall complete a registration in order to receive or obtain the next master lien list.

(4) The Secretary of State shall deposit any funds received pursuant to subsection (2) of this section in the Uniform Commercial Code Cash Fund.

Source: Laws 1988, LB 987, § 2; Laws 1998, LB 924, § 25; Laws 2003, LB 4, § 5; Laws 2007, LB124, § 69; Laws 2016, LB1035, § 5.

52-1603 Buyer of farm products; purchase subject to lien; when; waiver or release of lien.

(1) A buyer of farm products who is registered to receive or obtain the master lien list as provided in section 52-1602 and who, in the ordinary course of business, buys farm products from a seller engaged in farming operations shall take free of any lien created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, if such lien is not on the most recent master lien list received or obtained by the buyer pursuant to sections 52-1601 to 52-1605, except that such

buyer shall take subject to any such lien if the lien was filed after the last date for inclusion in the most recent distribution or publication of the master lien list and if the buyer has received from the lienholder or seller written notice of the lien. For purposes of this subsection, the form of such written notice of the lien may be a copy of the lien filing. For purposes of this subsection, received or obtained by the buyer means the first date upon which delivery of the master lien list, in whatever form, is attempted by a carrier or, in the case of electronic publication, the first date upon which the Secretary of State made the most current master lien list available electronically, and in all cases in which delivery of the master lien list is involved, a buyer shall be presumed to have received the master lien list ten days after it was mailed by the Secretary of State.

(2) If a buyer buying property subject to a lien created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, tenders to the seller the total purchase price by means of a check or other instrument payable to such seller and the lienholder of any such lien for such property and if such lienholder authorizes the negotiation of such check or other instrument, such authorization or endorsement and payment thereof shall constitute a waiver or release of the lien specified to the extent of the amount of the check or instrument. Such waiver or release of the lien shall not serve to establish or alter in any way security interest or lien priorities under Nebraska law.

(3) Except as otherwise provided in the provisions of subsections (1) and (2) of this section, sections 52-1601 to 52-1605 shall not be interpreted or construed to alter liability of buyers of property subject to liens created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14.

Source: Laws 1988, LB 987, § 3; Laws 2003, LB 70, § 1; Laws 2016, LB1035, § 6; Laws 2017, LB142, § 2.

ARTICLE 19

NONCONSENSUAL COMMON-LAW LIENS

Section

- 52-1901. Nonconsensual common-law lien, defined.
- 52-1902. Transferred to section 52-1907.
- 52-1905. Nonconsensual common-law lien; how treated.
- 52-1906. Recording of nonconsensual common-law lien; claimant; serve copy upon owner; sheriff; duties; proceeding to enforce; time limit.
- 52-1907. Submission for filing or recording; liability.

52-1901 Nonconsensual common-law lien, defined.

For purposes of sections 52-1901 to 52-1907, nonconsensual common-law lien means a document that purports to assert a lien against real or personal property of any person or entity and:

- (1) Is not expressly provided for by a specific state or federal statute;
- (2) Does not depend on the consent of the owner of the real or personal property affected; and
- (3) Is not an equitable or constructive lien imposed by a state or federal court of competent jurisdiction.

Source: Laws 2003, LB 655, § 1; Laws 2013, LB3, § 3.

52-1902 Transferred to section 52-1907.

52-1905 Nonconsensual common-law lien; how treated.

A nonconsensual common-law lien is not binding or enforceable at law or in equity. Any nonconsensual common-law lien that is recorded is void and unenforceable.

Source: Laws 2013, LB3, § 4.

52-1906 Recording of nonconsensual common-law lien; claimant; serve copy upon owner; sheriff; duties; proceeding to enforce; time limit.

In order that the owner of real property upon which a nonconsensual common-law lien is recorded shall have notice of the recording of the lien, the claimant shall cause the sheriff to serve a copy of the recorded lien upon the owner of the real property upon which the nonconsensual common-law lien is recorded and the sheriff shall make return thereof without delay by filing proof of service with the register of deeds as provided in subsection (1) of section 25-507.01. There shall be no filing fee for filing the proof of service. A judicial proceeding to enforce a nonconsensual common-law lien shall be instituted by the claimant within ten days after recording the lien. Failure to serve a copy of the recorded lien upon the owner or failure to file a judicial proceeding to enforce the lien shall cause the lien to lapse and be of no legal effect.

Source: Laws 2013, LB3, § 5.

52-1907 Submission for filing or recording; liability.

If a person submits for filing or recording to the Secretary of State, county clerk, register of deeds, or clerk of any court any document purporting to create a nonconsensual common-law lien against real or personal property in violation of sections 52-1901 and 52-1905 to 52-1907 or section 76-296 and such document is so filed or recorded, the claimant submitting the document is liable to the person or entity against whom the lien is claimed for actual damages plus costs and reasonable attorney's fees.

Source: Laws 2003, LB 655, § 2; R.S.1943, (2010), § 52-1902; Laws 2013, LB3, § 6.

ARTICLE 20**HOMEOWNERS' ASSOCIATION**

Section

52-2001. Lien; foreclosure; notice; priority; costs and attorney's fees; homeowners' association; furnish statement; restrictions on lien; payments to escrow account; use.

52-2001 Lien; foreclosure; notice; priority; costs and attorney's fees; homeowners' association; furnish statement; restrictions on lien; payments to escrow account; use.

(1) A homeowners' association has a lien on a member's real estate for any assessment levied against real estate from the time the assessment becomes due and a notice containing the dollar amount of such lien is recorded in the office where mortgages or deeds of trust are recorded. The homeowners' association's lien may be foreclosed in like manner as a mortgage on real estate but the homeowners' association shall give reasonable notice of its action to all lienholders of real estate whose interest would be affected. Unless the homeowners'

association declaration or agreement otherwise provides, fees, charges, late charges, and interest charged are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment may be a lien from the time the first installment thereof becomes due.

(2) A lien under this section is prior to all other liens and encumbrances on real estate except (a) liens and encumbrances recorded before the recordation of the declaration or agreement, (b) a first mortgage or deed of trust on real estate recorded before the notice required under subsection (1) of this section has been recorded for a delinquent assessment for which enforcement is sought, and (c) liens for real estate taxes and other governmental assessments or charges against real estate. The lien under this section is not subject to the homestead exemption pursuant to section 40-101.

(3) Unless the declaration or agreement otherwise provides, if two or more homeowners' associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(4) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

(5) This section does not prohibit actions to recover sums for which subsection (1) of this section creates a lien or prohibit a homeowners' association from taking a deed in lieu of foreclosure.

(6) A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

(7) The homeowners' association, upon written request, shall furnish to a homeowners' association member a recordable statement setting forth the amount of unpaid assessments against his or her real estate. The statement must be furnished within ten business days after receipt of the request and is binding on the homeowners' association, the governing board, and every homeowners' association member.

(8) The homeowners' association declaration, agreements, bylaws, rules, or regulations may not provide that a lien on a member's real estate for any assessment levied against real estate relates back to the date of filing of the declaration or that such lien takes priority over any mortgage or deed of trust on real estate recorded subsequent to the filing of the declaration and prior to the recording by the association of the notice required under subsection (1) of this section.

(9) In the event of a conflict between the provisions of the declaration and the bylaws, rules, or regulations or any other agreement of the homeowners' association, the declaration prevails except to the extent the declaration is inconsistent with this section.

(10)(a) The homeowners' association may require a person who purchases restricted real estate on or after September 6, 2013, to make payments into an escrow account established by the homeowners' association until the balance in the escrow account for that restricted real estate is in an amount not to exceed six months of assessments.

(b) All payments made under this subsection and received on or after September 6, 2013, shall be held in an interest-bearing checking account in a bank, savings bank, building and loan association, or savings and loan associa-

tion in this state under terms that place these payments beyond the claim of creditors of the homeowners' association. Upon request by an owner of restricted real estate, the homeowners' association shall disclose the name of the financial institution and the account number where the payments made under this subsection are being held. The homeowners' association may maintain a single escrow account to hold payments made under this subsection from all of the owners of restricted real estate. If a single escrow account is maintained, the homeowners' association shall maintain separate accounting records for each owner of restricted real estate.

(c) The payments made under this subsection may be used by the homeowners' association to satisfy any assessments attributable to an owner of restricted real estate for which assessment payments are delinquent. To the extent that the escrow deposit or any part thereof is applied to offset any unpaid assessments of an owner of restricted real estate, the homeowners' association may require such owner to replenish the escrow deposit.

(d) The homeowners' association shall return the payments made under this subsection, together with any interest earned on such payments, to the owner of restricted real estate when the owner sells the restricted real estate and has fully paid all assessments.

(e) Nothing in this subsection shall prohibit the homeowners' association from establishing escrow deposit requirements in excess of the amounts authorized in this subsection pursuant to provisions in the homeowners' association's declaration.

(11) For purposes of this section:

(a) Declaration means any instruments, however denominated, that create the homeowners' association and any amendments to those instruments;

(b)(i) Homeowners' association means an association whose members consist of a private group of fee simple owners of residential real estate formed for the purpose of imposing and receiving payments, fees, or other charges for:

(A) The use, rental, operation, or maintenance of common elements available to all members and services provided to the member for the benefit of the member or his or her real estate;

(B) Late payments of assessments and, after notice and opportunity to be heard, the levying of fines for violations of homeowners' association declarations, agreements, bylaws, or rules and regulations; or

(C) The preparation and recordation of amendments to declarations, agreements, resale statements, or statements for unpaid assessments; and

(ii) Homeowners' association does not include a co-owners association organized under the Condominium Property Act or a unit owners association organized under the Nebraska Condominium Act; and

(c) Real estate means the real estate of a homeowners' association member as such real estate is specifically described in the member's homeowners' association declaration or agreement.

Source: Laws 2010, LB736, § 1; Laws 2013, LB442, § 1.

Cross References

Condominium Property Act, see section 76-801.
Nebraska Condominium Act, see section 76-825.

ARTICLE 21

COMMERCIAL REAL ESTATE BROKER LIEN ACT

Section

- 52-2101. Act, how cited.
 52-2102. Terms, defined.
 52-2103. Lien; amount; attachment; when; notice of lien; recording; notice of lien for future commission; how treated.
 52-2104. Notice of lien; mailing of notice required; effect on lien.
 52-2105. Notice of lien; contents.
 52-2106. Lien; period of enforceability.
 52-2107. Priority of liens.
 52-2108. Release of lien; procedure; escrow established or interpleader filed; recording of document required; failure to file; additional procedures.

52-2101 Act, how cited.

Sections 52-2101 to 52-2108 shall be known and may be cited as the Commercial Real Estate Broker Lien Act.

Source: Laws 2013, LB3, § 7.

52-2102 Terms, defined.

For purposes of the Commercial Real Estate Broker Lien Act:

(1) Commercial real estate means any real estate other than real estate containing no more than four residential units or real estate on which no buildings or structures are located and that is zoned for single-family residential use. Commercial real estate does not include single-family residential units such as condominiums, townhouses, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even though these units may be a part of a larger building or parcel of real estate containing more than four residential units;

(2) Commission means any and all compensation that may be due a commercial real estate broker for performance of licensed services; and

(3) Commission agreement means a written agreement with a designated commercial real estate broker as required by subsections (2) through (6) of section 76-2422.

Source: Laws 2013, LB3, § 8.

52-2103 Lien; amount; attachment; when; notice of lien; recording; notice of lien for future commission; how treated.

(1)(a) A commercial real estate broker shall have a lien upon commercial real estate or any interest in that commercial real estate that is the subject of a purchase, lease, or other conveyance to a buyer or tenant of an interest in the commercial real estate in the amount of commissions that the commercial real estate broker is due.

(b) The lien shall be available only to the commercial real estate broker named in a commission agreement signed by an owner or buyer or their respective authorized agents as applicable and is not available to an employee, agent, subagent, or independent contractor of a commercial real estate broker.

(2) A lien under this section shall attach to commercial real estate or any interest in the commercial real estate when:

(a) The commercial real estate broker is entitled to a commission provided in a commission agreement signed by the owner, buyer, or their respective authorized agents, as applicable; and

(b) The commercial real estate broker records a notice of lien in the office of the register of deeds of the county in which the commercial real estate is located, prior to the actual conveyance or transfer of the commercial real estate against which the commercial real estate broker is claiming a lien, except as provided in this section. The lien shall attach as of the date of the recording of the notice of lien and shall not relate back to the date of the commission agreement.

(3) In the case of a lease, including a sublease or an assignment of a lease, the notice of lien shall be recorded not later than ninety days after the tenant takes possession of the leased premises. The lien shall attach as of the recording of the notice of lien and shall not relate back to the date of the commission agreement.

(4)(a) If a commercial real estate broker is due an additional commission as a result of future actions, including, but not limited to, the exercise of an option to expand the leased premises or to renew or extend a lease pursuant to a commission agreement signed by the then owner, the commercial real estate broker may record its notice of lien at any time after execution of the lease or other commission agreement which contains such option, but not later than ninety days after the event or occurrence on which the future commission is claimed occurs.

(b) In the event that the commercial real estate is sold or otherwise conveyed prior to the date on which a future commission is due, and if the commercial real estate broker has filed a valid notice of lien prior to the sale or other conveyance of the commercial real estate, then the purchaser or transferee shall be deemed to have notice of and shall take title to the commercial real estate subject to the notice of lien. If a commercial real estate broker claiming a future commission fails to record its notice of lien for future commission prior to the recording of a deed conveying legal title to the commercial real estate to the purchaser or transferee, then such commercial real estate broker shall not claim a lien on the commercial real estate. This subsection shall not limit or otherwise affect claims or defenses a commercial real estate broker or owner or any other party may have on any other basis, in law or in equity.

(5) If a commercial real estate broker has a commission agreement as described in subdivision (4)(a) of this section with a prospective buyer, then the lien shall attach upon the prospective buyer purchasing or otherwise accepting a conveyance or transfer of the commercial real estate and the recording of a notice of lien by the commercial real estate broker in the office of the register of deeds of the county in which the commercial real estate, or any interest in the commercial real estate, is located, within ninety days after the purchase or other conveyance or transfer to the buyer or tenant. The lien shall attach as of the date of the recording of the notice of lien and shall not relate back to the date of the commission agreement.

Source: Laws 2013, LB3, § 9.

52-2104 Notice of lien; mailing of notice required; effect on lien.

The commercial real estate broker shall, within ten days after recording its notice of lien, either mail a copy of the notice of lien to the owner of record of

the commercial real estate by registered or certified mail at the address of the owner stated in the commission agreement on which the claim for lien is based or, if no such address is given, then to the address of the commercial real estate on which the claim of lien is based. Mailing of the copy of the notice of lien is effective when deposited in a United States mailbox with postage prepaid. The commercial real estate broker's lien shall be unenforceable if mailing or service of the copy of notice of lien does not occur at the time and in the manner required by this section.

Source: Laws 2013, LB3, § 10.

52-2105 Notice of lien; contents.

The notice of lien shall state the name of the commercial real estate broker, the name as reflected in the commercial real estate broker's records of any person the commercial real estate broker believes to be an owner of the commercial real estate on which the lien is claimed, the name as reflected in the commercial real estate broker's records of any person whom the commercial real estate broker believes to be obligated to pay the commission under the commission agreement, a description legally sufficient for identification of the commercial real estate upon which the lien is claimed, and the amount for which the lien is claimed. The notice of lien shall recite that the information contained in the notice is true and accurate to the knowledge of the signatories. The notice of lien shall be signed by the commercial real estate broker or by a person authorized to sign on behalf of the commercial real estate broker and shall be notarized.

Source: Laws 2013, LB3, § 11.

52-2106 Lien; period of enforceability.

(1) Except as provided in subsections (2) and (3) of this section, a lien that has become enforceable as provided in section 52-2103 shall continue to be enforceable for two years after the recording of the lien.

(2) Except as provided in subsection (3) of this section, if an owner, holder of a security interest, mortgage, or trust deed, or other person having an interest in the commercial real estate gives the commercial real estate broker written demand to institute a judicial proceeding within thirty days, the lien lapses unless, within thirty days after receipt of the written demand, the commercial real estate broker institutes judicial proceedings.

(3) If a judicial proceeding to enforce a lien is instituted while a lien is effective under subsection (1) or (2) of this section, the lien continues during the pendency of the proceeding.

Source: Laws 2013, LB3, § 12.

52-2107 Priority of liens.

(1) Recorded liens, mortgages, trust deeds, and other encumbrances on commercial real estate, including a recorded lien securing revolving credit and future advances for a loan, recorded before the date the commercial real estate broker's lien is recorded, shall have priority over the commercial real estate broker's lien.

(2) A construction lien claim that is recorded after the commercial real estate broker's notice of lien but that relates back to a date prior to the recording date

of the commercial real estate broker's notice of lien has priority over the commercial real estate broker's lien.

(3) A purchase-money lien executed by the buyer of commercial real estate in connection with a loan for which any part of the proceeds are used to pay the purchase price of the commercial real estate has priority over a commercial real estate broker's lien claimed for the commission owed by the buyer against the commercial real estate purchased by the buyer.

Source: Laws 2013, LB3, § 13.

52-2108 Release of lien; procedure; escrow established or interpleader filed; recording of document required; failure to file; additional procedures.

(1) Whenever a notice of a commercial real estate broker's lien has been recorded, the record owner of the commercial real estate may have the lien released by depositing funds equal to the full amount stated in the notice of lien plus fifteen percent to be applied towards any lien under section 52-2103. These funds shall be held in escrow by such person and by such process which may be agreed to by the parties, either in the commission agreement or otherwise, for the payment to the commercial real estate broker or otherwise for resolution for their dispute or, in the absence of any such mutually agreed person or process, the funds may be deposited with the district court by the filing of an interpleader. Upon such deposit of funds by interpleader, the commercial real estate shall be considered released from such lien or claim of lien. Upon written notice to the commercial real estate broker that the funds have been escrowed or an interpleader filed, the commercial real estate broker shall, within ten business days, record in the office of the register of deeds where the notice of commercial real estate broker's lien was filed pursuant to section 52-2103 a document stating that the lien is released and the commercial real estate released by an escrow established pursuant to this section or by interpleader. If the commercial real estate broker fails to file such document, the person holding the funds may sign and file such document and deduct from the escrow the reasonable cost of preparing and filing the document. Upon the filing of such document, the commercial real estate broker shall be deemed to have an equitable lien on the escrow funds pending a resolution of the commercial real estate broker's claim for payment and the funds shall not be paid to any person, except for such payment to the holder of the funds as set forth in this section, until a resolution of the commercial real estate broker's claim for payment has been agreed to by all necessary parties or ordered by a court having jurisdiction.

(2) Except as otherwise provided in this section, whenever a commercial real estate broker's lien has been recorded and an escrow account is established either from the proceeds from the transaction, conveyance, or any other source of funds computed as one hundred fifteen percent of the amount of the claim for lien, then the lien against the commercial real estate shall be extinguished and immediately become a lien on the funds contained in the escrow account. The requirement to establish an escrow account, as provided in this section, shall not be cause for any party to refuse to complete or close the transaction.

Source: Laws 2013, LB3, § 14.

ARTICLE 22
CONTINUATION STATEMENTS

Section

52-2201. Financing statement filed prior to November 1, 2003; loss of perfection; continuation statement; filing required; contents; effect; Secretary of State; duties.

52-2201 Financing statement filed prior to November 1, 2003; loss of perfection; continuation statement; filing required; contents; effect; Secretary of State; duties.

A financing statement filed to perfect a lien pursuant to sections 52-202, 52-501, 52-701, 52-901, 52-1101, 52-1201, 52-1401 to 52-1411, 54-201, or 54-208, which was properly filed prior to November 1, 2003, shall lose its perfection unless a continuation statement is filed with the Secretary of State after June 30, 2014, and before January 1, 2015. Such continuation statement shall include a statement that the original financing statement is still effective. The filing of a continuation statement shall preserve the priority of the original filing and shall be effective for five years after the date of filing of the continuation statement and may be subsequently continued as provided in article 9, Uniform Commercial Code. Not later than May 31, 2014, the Secretary of State shall notify, by first-class mail, the lienholders of record of the liens described in this section that such a lien shall lose its perfection unless a continuation statement is filed with the Secretary of State as provided in this section.

Source: Laws 2014, LB750, § 1.

LIQUORS

CHAPTER 53
LIQUORS

Article.

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 - (b) Nebraska Liquor Control Commission; Organization. 53-110.
 - (c) Nebraska Liquor Control Commission; General Powers. 53-116.01 to 53-119.01.
 - (d) Licenses; Issuance and Revocation. 53-121 to 53-148.01.
 - (f) Tax. 53-160 to 53-164.01.
 - (h) Keg Sales. 53-167.02, 53-167.03.
 - (i) Prohibited Acts. 53-168.06 to 53-197.
 - (j) Penalties. 53-1,100, 53-1,104.
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ARTICLE 1

NEBRASKA LIQUOR CONTROL ACT

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LIQUORS

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NEBRASKA LIQUOR CONTROL ACT

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(a) GENERAL PROVISIONS

53-101 Act, how cited.

Sections 53-101 to 53-1,122 shall be known and may be cited as the Nebraska Liquor Control Act.

Source: Laws 1935, c. 116, § 1, p. 373; C.S.Supp.,1941, § 53-301; R.S. 1943, § 53-101; Laws 1988, LB 490, § 3; Laws 1988, LB 901, § 1; Laws 1988, LB 1089, § 1; Laws 1989, LB 70, § 1; Laws 1989, LB 441, § 1; Laws 1989, LB 781, § 1; Laws 1991, LB 344, § 2; Laws 1991, LB 582, § 1; Laws 1993, LB 183, § 1; Laws 1993, LB 332, § 1; Laws 1994, LB 1292, § 1; Laws 2000, LB 973, § 1; Laws 2001, LB 114, § 1; Laws 2004, LB 485, § 2; Laws 2006, LB 845, § 1; Laws 2007, LB549, § 1; Laws 2007, LB578, § 1; Laws 2009, LB232, § 1; Laws 2009, LB355, § 1; Laws 2010, LB258, § 1; Laws 2010, LB861, § 7; Laws 2011, LB407, § 1; Laws 2012, LB824, § 1; Laws 2012, LB1130, § 1; Laws 2015, LB118, § 2; Laws 2015, LB330, § 2; Laws 2018, LB1120, § 1. Effective date July 19, 2018.

53-103 Definitions, where found.

For purposes of the Nebraska Liquor Control Act, the definitions found in sections 53-103.01 to 53-103.47 apply.

Source: Laws 1935, c. 116, § 2, p. 374; C.S.Supp.,1941, § 53-302; R.S. 1943, § 53-103; Laws 1961, c. 258, § 1, p. 757; Laws 1963, c. 310, § 1, p. 919; Laws 1963, Spec. Sess., c. 4, § 1, p. 66; Laws 1963, Spec. Sess., c. 5, § 1, p. 71; Laws 1965, c. 318, § 2, p. 886; Laws 1965, c. 319, § 1, p. 904; Laws 1969, c. 298, § 1, p. 1072; Laws 1971, LB 234, § 2; Laws 1971, LB 752, § 1; Laws 1972, LB 1086, § 2; Laws 1973, LB 111, § 1; Laws 1980, LB 221, § 2; Laws 1980, LB 848, § 1; Laws 1981, LB 483, § 1; Laws 1983, LB 213, § 2; Laws 1984, LB 56, § 1; Laws 1985, LB 183, § 1; Laws 1985, LB 279, § 2; Laws 1986, LB 871, § 1; Laws 1986, LB 911, § 2; Laws 1987, LB 468, § 1; Laws 1988, LB 490, § 4; Laws 1988, LB 901, § 2; Laws 1988, LB 1089, § 2; Laws 1989, LB 154, § 1; Laws 1989, LB 441, § 2; Laws 1991, LB 344, § 5; Laws 1993, LB 121, § 317; Laws 1994, LB 859, § 2; Laws 1994, LB 1313, § 2; Laws 1996, LB 750, § 1; Laws 1996, LB 1090, § 1; Laws 1999, LB 267, § 2; Laws 2001, LB 114, § 2; Laws 2001, LB 278, § 1; Laws 2003, LB 536, § 2; Laws 2004, LB 485, § 3; Laws 2006, LB 562, § 1; Laws 2007, LB549, § 2; Laws 2008, LB1103, § 1; Laws 2009, LB137, § 1; Laws 2009, LB355, § 2; Laws 2010, LB788, § 1; Laws 2010, LB861, § 8; Laws 2012, LB824, § 2; Laws 2015, LB330, § 3; Laws 2018, LB1120, § 2. Effective date July 19, 2018.

53-103.03 Beer, defined.

Beer means a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and includes, but

is not limited to, beer, ale, stout, lager beer, porter, near beer, flavored malt beverage, and hard cider.

Source: Laws 2010, LB861, § 11; Laws 2012, LB824, § 3; Laws 2015, LB330, § 4.

53-103.05 Brewpub, defined.

Brewpub means any restaurant or hotel which produces on its premises a maximum of twenty thousand barrels of beer per year.

Source: Laws 2010, LB861, § 13; Laws 2012, LB780, § 1.

53-103.08 Cigar shop, defined.

Cigar shop means an establishment operated by a holder of a Class C liquor license which:

(1) Does not sell food;

(2) In addition to selling alcohol, annually receives ten percent or more of its gross revenue from the sale of cigars, other tobacco products, and tobacco-related products, except from the sale of cigarettes as defined in section 69-2702. A cigar shop shall not discount alcohol if sold in combination with cigars or other tobacco products and tobacco-related products;

(3) Has a walk-in humidor on the premises; and

(4) Does not permit the smoking of cigarettes.

Source: Laws 2010, LB861, § 16; Laws 2015, LB118, § 3.

53-103.09 Club, defined.

(1) Club means a corporation (a) which is organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquor, (b) which is kept, used, and maintained by its members through the payment of annual dues, and (c) which owns, hires, or leases a building or space in a building suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests.

(2) The affairs and management of such club shall be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and no member, officer, agent, or employee of the club shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members other than any salary fixed and voted at any annual meeting by the members or by the governing body of the club out of the general revenue of the club.

Source: Laws 2010, LB861, § 17; Laws 2016, LB1105, § 6.

53-103.18 Manager, defined.

Manager means a person appointed by a corporation or limited liability company to oversee the daily operation of the business licensed in Nebraska. A manager shall meet all the requirements of the Nebraska Liquor Control Act as though he or she were the applicant, including residency.

Source: Laws 2010, LB861, § 26; Laws 2016, LB1105, § 7.

53-103.20 Manufacturer, defined.

Manufacturer means every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler, restaurant, hotel, or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying, or bottling alcoholic liquor, including a wholly owned affiliate or duly authorized agent for a manufacturer.

Source: Laws 2010, LB861, § 28; Laws 2016, LB1105, § 8.

53-103.21 Microbrewery, defined.

Microbrewery means any small brewery producing a maximum of twenty thousand barrels of beer per year.

Source: Laws 2010, LB861, § 29; Laws 2012, LB780, § 2.

53-103.38 Spirits, defined.

Spirits means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution. Spirits includes brandy, rum, whiskey, gin, or other spirituous liquors and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances. Spirits does not include flavored malt beverages.

Source: Laws 2010, LB861, § 46; Laws 2012, LB824, § 5.

53-103.41 Wholesaler, defined.

Wholesaler means a person importing or causing to be imported into the state or purchasing or causing to be purchased within the state alcoholic liquor for sale or resale to retailers licensed under the Nebraska Liquor Control Act, whether the business of the wholesaler is conducted under the terms of a franchise or any other form of an agreement with a manufacturer or manufacturers, or who has caused alcoholic liquor to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date.

Wholesaler includes a distributor, distributorship, and jobber.

Source: Laws 2010, LB861, § 49; Laws 2016, LB1105, § 9.

53-103.43 Flavored malt beverage, defined.

Flavored malt beverage means a beer that derives not more than forty-nine percent of its total alcohol content from flavors or flavorings containing alcohol obtained by distillation, except that in the case of a malt beverage with an alcohol content of more than six percent by volume, not more than one and one-half percent of the volume of the malt beverage may consist of alcohol derived from flavors, flavorings, or other nonbeverage ingredients containing alcohol obtained by distillation.

Source: Laws 2012, LB824, § 4.

53-103.44 Hard cider, defined.

Hard cider means still wine (1)(a) derived primarily from apples or apple concentrate and water such that apple juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration,

represents more than fifty percent of the volume of the finished product or (b) derived primarily from pears or pear concentrate and water such that pear juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, represents more than fifty percent of the volume of the finished product, (2) containing at least one-half of one percent and less than eight and one-half percent alcohol by volume, (3) having the taste, aroma, and characteristics generally attributed to hard cider, and (4) sold or offered for sale as hard cider.

Source: Laws 2015, LB330, § 5; Laws 2016, LB1105, § 10.

53-103.45 Pedal-pub vehicle, defined.

Pedal-pub vehicle means a multi-passenger, human-powered vehicle.

Source: Laws 2015, LB330, § 6.

53-103.46 Powdered alcohol, defined.

Powdered alcohol means alcohol prepared in a powdered form for either direct use or consumption after the powder is combined with a liquid.

Source: Laws 2015, LB330, § 7.

53-103.47 Bottle club, defined.

Bottle club means an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquor congregate for the express purpose of consuming alcoholic liquor upon the payment of a fee or other consideration.

Source: Laws 2018, LB1120, § 3.

Effective date July 19, 2018.

(b) NEBRASKA LIQUOR CONTROL COMMISSION; ORGANIZATION

53-110 Commissioners and employees; qualifications; employment by licensee authorized; restrictions.

(1) No person shall be appointed as a commissioner, the executive director of the commission, or an employee of the commission who is not a citizen of the United States and who has not resided within the State of Nebraska successively for two years next preceding the date of his or her appointment.

(2) No person (a) convicted of or who has pleaded guilty to a felony or any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor prior or subsequent to the passage of the Nebraska Liquor Control Act, (b) who has paid a fine or penalty in settlement of any prosecution against him or her for any violation of such laws, or (c) who has forfeited his or her bond to appear in court to answer charges for any such violation shall be appointed commissioner.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection, no commissioner or employee of the commission may, directly or indirectly, individually, as a member of a partnership, as a member of a limited liability company, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale, or distribution of alcoholic liquor, receive any compensation or profit from such manufacture, sale, or distribution, or have any

interest whatsoever in the purchases or sales made by the persons authorized by the act to purchase or to sell alcoholic liquor.

(b) With the written approval of the executive director, an employee of the commission, other than the executive director or a division manager, may accept part-time or seasonal employment with a person licensed or regulated by the commission. No such employment shall be approved if the licensee receives more than fifty percent of the licensee's gross revenue from the sale or dispensing of alcoholic liquor.

(4) This section shall not prevent any commissioner, the executive director, or any employee from purchasing and keeping in his or her possession for the use of himself, herself, or members of his or her family or guests any alcoholic liquor which may be purchased or kept by any person pursuant to the act.

Source: Laws 1935, c. 116, § 11, p. 380; C.S.Supp.,1941, § 53-311; R.S.1943, § 53-110; Laws 1989, LB 780, § 3; Laws 1991, LB 344, § 7; Laws 1993, LB 121, § 318; Laws 2011, LB407, § 2.

(c) NEBRASKA LIQUOR CONTROL COMMISSION; GENERAL POWERS

53-116.01 Retail licensees; bottle club licensees; inspection of premises; suspend, cancel, or revoke license; when.

The commission and local governing bodies shall cause frequent inspection to be made on the premises of all retail licensees and bottle club licensees, and if it is found that any such licensee is violating any provision of the Nebraska Liquor Control Act or the rules and regulations of the commission adopted and promulgated under the act or is failing to observe in good faith the purposes of the act, the license may be suspended, canceled, or revoked after the licensee is given an opportunity to be heard in his or her defense.

Source: Laws 1935, c. 116, § 103, p. 429; C.S.Supp.,1941, § 53-3,103; R.S.1943, § 53-146; Laws 1957, c. 231, § 1, p. 790; Laws 1959, c. 249, § 15, p. 873; Laws 1977, LB 176, § 1; Laws 1980, LB 848, § 10; R.S.1943, (1988), § 53-146; Laws 1991, LB 344, § 9; Laws 2004, LB 485, § 4; Laws 2018, LB1120, § 5.
Effective date July 19, 2018.

53-116.02 Licensee; violations; forfeiture or revocation of license.

Whenever any retail licensee, bottle club licensee, craft brewery licensee, or microdistillery licensee has been convicted by any court of a violation of the Nebraska Liquor Control Act, the licensee may, in addition to the penalties for such offense, incur a forfeiture of the license and all money that had been paid for the license. The local governing body may conditionally revoke the license subject to a final order of the commission, or the commission may revoke the license in an original proceeding brought before it for that purpose.

Source: Laws 1935, c. 116, § 47, p. 403; C.S.Supp.,1941, § 53-347; R.S.1943, § 53-128; Laws 1989, LB 781, § 7; R.S.Supp.,1990, § 53-128; Laws 1991, LB 344, § 10; Laws 1993, LB 183, § 4; Laws 1999, LB 267, § 4; Laws 2004, LB 485, § 5; Laws 2007, LB549, § 3; Laws 2018, LB1120, § 6.
Effective date July 19, 2018.

53-117 Powers, functions, and duties.

The commission has the following powers, functions, and duties:

(1) To receive applications for and to issue licenses to and suspend, cancel, and revoke licenses of manufacturers, wholesalers, nonbeverage users, retailers, railroads including owners and lessees of sleeping, dining, and cafe cars, airlines, boats, bottle clubs, and pedal-pub vehicles in accordance with the Nebraska Liquor Control Act;

(2) To fix by rules and regulations the standards of manufacture of alcoholic liquor not inconsistent with federal laws in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof and to adopt and promulgate rules and regulations not inconsistent with federal laws for the proper labeling of containers, barrels, casks, or other bulk containers or of bottles of alcoholic liquor manufactured or sold in this state. The Legislature intends, by the grant of power to adopt and promulgate rules and regulations, that the commission have broad discretionary powers to govern the traffic in alcoholic liquor and to enforce strictly all provisions of the act in the interest of sanitation, purity of products, truthful representations, and honest dealings in a manner that generally will promote the public health and welfare. All such rules and regulations shall be absolutely binding upon all licensees and enforceable by the commission through the power of suspension or cancellation of licenses, except that all rules and regulations of the commission affecting a club possessing any form of retail license or bottle club license shall have equal application to all such licenses or shall be void;

(3) To call upon other administrative departments of the state, county and municipal governments, county sheriffs, city police departments, village marshals, peace officers, and prosecuting officers for such information and assistance as the commission deems necessary in the performance of its duties. The commission shall enter into an agreement with the Nebraska State Patrol in which the Nebraska State Patrol shall hire six new patrol officers and, from the entire Nebraska State Patrol, shall designate a minimum of six patrol officers who will spend a majority of their time in administration and enforcement of the Nebraska Liquor Control Act;

(4) To recommend to local governing bodies rules and regulations not inconsistent with law for the distribution and sale of alcoholic liquor throughout the state;

(5) To inspect or cause to be inspected any premises where alcoholic liquor is manufactured, distributed, or sold and, when sold on unlicensed premises or on any premises in violation of law, to bring an action to enjoin the use of the property for such purpose;

(6) To hear and determine appeals from orders of a local governing body in accordance with the act;

(7) To conduct or cause to be conducted an audit to inspect any licensee's records and books;

(8) In the conduct of any hearing or audit authorized to be held by the commission (a) to examine or cause to be examined, under oath, any licensee and to examine or cause to be examined the books and records of such licensee, (b) to hear testimony and take proof material for its information in the discharge of its duties under the act, and (c) to administer or cause to be administered oaths;

(9) To investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the act; and

(10) To receive, account for, and remit to the State Treasurer state license fees and taxes provided for in the act.

Source: Laws 1935, c. 116, § 16, p. 382; C.S.Supp.,1941, § 53-316; R.S.1943, § 53-117; Laws 1959, c. 245, § 1, p. 842; Laws 1965, c. 318, § 4, p. 891; Laws 1967, c. 332, § 1, p. 879; Laws 1974, LB 681, § 4; Laws 1980, LB 848, § 2; Laws 1981, LB 545, § 15; Laws 1988, LB 1089, § 6; Laws 1989, LB 781, § 4; Laws 1991, LB 344, § 11; Laws 1993, LB 183, § 5; Laws 1999, LB 267, § 5; Laws 2004, LB 485, § 6; Laws 2013, LB579, § 1; Laws 2015, LB330, § 9; Laws 2018, LB1120, § 7.
Effective date July 19, 2018.

53-117.03 Employee and management training; commission; powers and duties; fees; certification.

(1) On or before January 1, 2007, the commission shall adopt and promulgate rules and regulations governing programs which provide training for persons employed in the sale and service of alcoholic liquor and management of licensed premises. Such rules and regulations may include, but need not be limited to:

(a) Minimum standards governing training of beverage servers, including standards and requirements governing curriculum, program trainers, and certification requirements;

(b) Minimum standards governing training in management of licensed premises, including standards and requirements governing curriculum, program trainers, and certification requirements;

(c) Minimum standards governing the methods allowed for training programs which may include the Internet, interactive video, live training in various locations across the state, and other means deemed appropriate by the commission;

(d) Methods for approving beverage-server training organizations and programs. All beverage-server training programs approved by the commission shall issue a certificate of completion to all persons who successfully complete the program and shall provide the names of all persons completing the program to the commission;

(e) Enrollment fees in an amount determined by the commission to be necessary to cover the administrative costs, including salary and benefits, of enrolling in a training program offered by the commission pursuant to subsection (2) of this section, but not to exceed thirty dollars; and

(f) Procedures and fees for certification, which fees shall be in an amount determined by the commission to be sufficient to defray the administrative costs, including salary and benefits, associated with maintaining a list of persons certified under this section and issuing proof of certification to eligible individuals but shall not exceed twenty dollars.

(2) The commission may create a program to provide training for persons employed in the sale and service of alcoholic liquor and management of licensed premises. The program shall include training on the issues of sales and

service of alcoholic liquor to minors and to visibly inebriated purchasers. The commission may charge each person enrolling in the program an enrollment fee as provided in the rules and regulations, but such fee shall not exceed thirty dollars. All such fees shall be collected by the commission and remitted to the State Treasurer for credit to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(3) A person who has completed a training program which complies with the rules and regulations, whether such program is offered by the commission or by another organization, may become certified by the commission upon the commission receiving evidence that he or she has completed such program and the person seeking certification paying the certification fee established under this section.

Source: Laws 2006, LB 845, § 3; Laws 2013, LB199, § 22.

53-117.06 Nebraska Liquor Control Commission Rule and Regulation Cash Fund; created; use; investment.

Any money collected by the commission pursuant to section 53-117.05 or 53-167.02 shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, which fund is hereby created. The purpose of the fund shall be to cover any administrative costs, including salary and benefits, incurred by the commission in producing or distributing the material referred to in such sections and to defray the costs associated with electronic regulatory transactions, industry education events, enforcement training, and equipment for regulatory work. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Liquor Control Commission Rule and Regulation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1989, LB 70, § 4; Laws 1989, LB 781, § 18; Laws 1993, LB 183, § 7; Laws 1993, LB 332, § 6; Laws 1994, LB 1066, § 42; Laws 2008, LB993, § 1; Laws 2009, First Spec. Sess., LB3, § 28; Laws 2013, LB199, § 23.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

53-117.07 Proceedings to suspend, cancel, or revoke licenses before commission.

All proceedings for the suspension, cancellation, or revocation of licenses of manufacturers, wholesalers, nonbeverage users, craft breweries, microdistilleries, railroads, airlines, shippers, boats, and pedal-pub vehicles shall be before the commission, and the proceedings shall be in accordance with rules and regulations adopted and promulgated by it not inconsistent with law. No such license shall be so suspended, canceled, or revoked except after a hearing by the commission with reasonable notice to the licensee and opportunity to appear and defend.

Source: Laws 1935, c. 116, § 94, p. 425; C.S.Supp.,1941, § 53-394; R.S.1943, § 53-140; Laws 1967, c. 332, § 11, p. 891; Laws 1980,

LB 848, § 8; Laws 1988, LB 1089, § 19; R.S.1943, (1988), § 53-140; Laws 1991, LB 344, § 12; Laws 1996, LB 750, § 2; Laws 2007, LB549, § 4; Laws 2015, LB330, § 10.

53-119.01 Fire safety inspection; fee.

The commission may request the State Fire Marshal to inspect for fire safety pursuant to section 81-502 any premises for which an annually renewable retail license or bottle club license, or renewal of such a license, is sought. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 which shall be payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Source: Laws 1983, LB 498, § 1; Laws 2004, LB 485, § 7; Laws 2018, LB1120, § 8.
Effective date July 19, 2018.

(d) LICENSES; ISSUANCE AND REVOCATION

53-121 Repealed. Laws 2014, LB 863, § 31.

53-122 Sale of liquor by drink; license issuance authorized; exception.

The commission may issue licenses for the sale of alcoholic liquor, except beer, by the drink subject to all the terms and conditions of the Nebraska Liquor Control Act in all cities and villages in this state, except in those cases when it affirmatively appears that the issuance will render null and void prior conveyances of land to such city or village for public uses and purposes by purchase, gift, or devise, under the conditions and in the manner provided in this section.

Source: Laws 1935, c. 116, § 48, p. 403; C.S.Supp.,1941, § 53-348; R.S.1943, § 53-122; Laws 1963, c. 309, § 1, p. 911; Laws 1963, c. 310, § 2, p. 923; Laws 1969, c. 439, § 1, p. 1469; Laws 1973, LB 556, § 1; Laws 1977, LB 40, § 311; Laws 1984, LB 920, § 43; Laws 1988, LB 1089, § 7; Laws 1989, LB 781, § 5; Laws 1991, LB 344, § 15; Laws 1993, LB 183, § 8; Laws 1994, LB 76, § 570; Laws 1999, LB 267, § 6; Laws 2001, LB 278, § 2; Laws 2004, LB 485, § 8; Laws 2005, LB 98, § 34; Laws 2010, LB861, § 51; Laws 2014, LB863, § 23.

53-123 Licenses; types.

Licenses issued by the commission shall be of the following types: (1) Manufacturer's license; (2) alcoholic liquor wholesale license, except beer; (3) beer wholesale license; (4) retail license; (5) railroad license; (6) airline license; (7) boat license; (8) nonbeverage user's license; (9) farm winery license; (10) craft brewery license; (11) shipping license; (12) special designated license; (13) catering license; (14) microdistillery license; (15) entertainment district license; (16) pedal-pub vehicle license; and (17) bottle club license.

Source: Laws 1935, c. 116, § 25, p. 390; C.S.Supp.,1941, § 53-325; R.S.1943, § 53-123; Laws 1947, c. 187, § 1, p. 616; Laws 1947, c. 188, § 1, p. 621; Laws 1963, c. 310, § 3, p. 926; Laws 1967, c. 332, § 3, p. 881; Laws 1985, LB 279, § 3; Laws 1988, LB 1089,

§ 8; Laws 1991, LB 344, § 16; Laws 1996, LB 750, § 3; Laws 2004, LB 485, § 9; Laws 2007, LB549, § 5; Laws 2012, LB1130, § 2; Laws 2015, LB330, § 11; Laws 2018, LB1120, § 9.
Effective date July 19, 2018.

53-123.01 Manufacturer's license; rights of licensee; craft brewery license holder; when required to obtain manufacturer's license; rights of holder.

(1) A manufacturer's license shall allow the manufacture, storage, and sale of alcoholic liquor to wholesale licensees in this state and to such persons outside the state as may be permitted by law, except that nothing in the Nebraska Liquor Control Act shall prohibit a manufacturer of beer from distributing tax-paid samples of beer at the premises of a licensed manufacturer for consumption on the premises. A manufacturer's license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer manufactured on the licensed premises for consumption on the licensed premises.

(2)(a) A licensee who or which first obtains a craft brewery license pursuant to section 53-123.14, holds such license for not less than three years, and operates a brewpub or microbrewery on the licensed premises of such craft brewery license shall obtain a manufacturer's license when the manufacture of beer on the licensed premises exceeds twenty thousand barrels per year. The manufacturer's license shall authorize the continued retail sale of beer for consumption on or off the premises but only to the extent the premises were previously licensed as a craft brewery. The sale of any beer other than beer manufactured by the licensee, wine, or alcoholic liquor for consumption on the licensed premises shall require the appropriate retail license. The holder of such manufacturer's license may continue to operate up to five retail locations which are in operation at the time such manufacturer's license is issued and shall divest itself from retail locations in excess of five locations. The licensee shall not begin operation at any new retail location even if the licensee's production is reduced below twenty thousand barrels per year.

(b) The holder of such manufacturer's license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, or an entertainment district license pursuant to section 53-123.17.

Source: Laws 1935, c. 116, § 25, p. 390; C.S.Supp.,1941, § 53-325; R.S.1943, § 53-123; Laws 1947, c. 187, § 1(1), p. 617; Laws 1947, c. 188, § 1(1), p. 621; Laws 1982, LB 431, § 1; Laws 1991, LB 344, § 17; Laws 1996, LB 750, § 4; Laws 2016, LB1105, § 11.

53-123.04 Retail license; rights of licensee; sampling; removal of unsealed bottle of wine; conditions.

(1) A retail license shall allow the licensee to sell and offer for sale at retail either in the original package or otherwise, as prescribed in the retail license, on the premises specified in the retail license or the entertainment district license or on the premises where catering is occurring, alcoholic liquor or beer for use or consumption but not for resale in any form except as provided in section 53-175.

(2) Nothing in the Nebraska Liquor Control Act shall prohibit a holder of a Class D license from allowing the sampling of tax-paid wine for consumption on the premises by such licensee or his or her employees in cooperation with a licensed wholesaler in the manner prescribed by the commission.

(3)(a) A restaurant holding a license to sell alcoholic liquor at retail for consumption on the licensed premises may permit a customer to remove one unsealed bottle of wine for consumption off the premises if the customer has purchased a full-course meal and consumed a portion of the bottle of wine with such full-course meal on the licensed premises. The licensee or his or her agent shall (i) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (ii) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine and the full-course meal.

(b) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(c) For purposes of this subsection, full-course meal means a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking.

Source: Laws 1935, c. 116, § 25, p. 390; C.S.Supp.,1941, § 53-325; R.S.1943, § 53-123; Laws 1947, c. 187, § 1(4), p. 617; Laws 1947, c. 188, § 1(4), p. 622; Laws 1965, c. 318, § 5, p. 892; Laws 1973, LB 111, § 3; Laws 1978, LB 386, § 3; Laws 1988, LB 1089, § 9; Laws 1989, LB 154, § 2; Laws 1989, LB 441, § 3; Laws 1991, LB 344, § 20; Laws 1993, LB 53, § 2; Laws 1994, LB 859, § 4; Laws 2001, LB 278, § 3; Laws 2004, LB 485, § 12; Laws 2006, LB 562, § 2; Laws 2012, LB1130, § 3.

53-123.08 Bottle club license; rights of licensee.

(1) A bottle club may be operated by a club, an individual, a partnership, a limited liability company, or a corporation. An accurate and current membership list shall be maintained upon the licensed premises which contains the names and residences of the members but shall not be subject to disclosure except as required by warrant, subpoena, or court order.

(2) A bottle club shall not operate on any day between the hours of 5 a.m. and 6 a.m.

(3) The holder of a bottle club license shall not simultaneously hold another license under the Nebraska Liquor Control Act.

(4) The holder of a bottle club license shall be subject to all provisions of the Nebraska Liquor Control Act and the rules and regulations adopted and promulgated under the act that govern the operation of retail licensees except as otherwise provided in subsection (2) of this section.

Source: Laws 2018, LB1120, § 4.
Effective date July 19, 2018.

53-123.11 Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions.

(1) A farm winery license shall entitle the holder to:

(a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;

(b) Sell wines produced at the farm winery at retail for consumption on the premises;

(c)(i) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (A) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (B) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine.

(ii) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

(d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;

(e) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts;

(f) Sell wines produced at the farm winery to other Nebraska farm winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such regulations existed on January 1, 2008;

(g) Purchase distilled spirits from licensed microdistilleries in Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm winery wine to be used in the production of fortified wine at the purchasing licensed farm winery; and

(h) Store and warehouse products produced at the farm winery in a designated, secure, offsite storage facility if the holder of the farm winery license notifies the commission of the location of the facility and maintains, at the farm winery and at the facility, a separate perpetual inventory of the product stored at the facility. Consumption of alcoholic liquor at the facility is strictly prohibited.

(2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

(3) A farm winery may manufacture and sell hard cider on its licensed premises. A farm winery shall not otherwise distribute the hard cider it manufactures except by sale to a wholesaler licensed under the Nebraska Liquor Control Act.

(4) A holder of a farm winery license may obtain a special designated license pursuant to section 53-124.11.

(5) A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

Source: Laws 1985, LB 279, § 5; Laws 1991, LB 344, § 23; Laws 1997, LB 479, § 1; Laws 2003, LB 536, § 3; Laws 2006, LB 562, § 3; Laws 2008, LB1103, § 2; Laws 2010, LB861, § 52; Laws 2015, LB330, § 12.

53-123.12 Farm winery license; application requirements; renewal; fees.

(1) Any person desiring to obtain a new license to operate a farm winery shall:

(a) File an application with the commission in triplicate original upon such forms as the commission from time to time prescribes;

(b) Pay the license fee to the commission under sections 53-124 and 53-124.01, which fee shall be returned to the applicant if the application is denied; and

(c) Pay the nonrefundable application fee to the commission in the sum of four hundred dollars.

(2) To renew a farm winery license, a farm winery licensee shall file an application with the commission, pay the license fee under sections 53-124 and 53-124.01, and pay the renewal fee of forty-five dollars.

(3) License fees, application fees, and renewal fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees.

(4) For a new license, the commission shall then notify the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall include with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of receipt by mail or electronic delivery of such application from the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting of or refusal to grant such license to the applicant.

Source: Laws 1985, LB 279, § 7; Laws 1988, LB 1089, § 10; Laws 1991, LB 202, § 2; Laws 2000, LB 973, § 3; Laws 2010, LB861, § 53; Laws 2011, LB407, § 3.

53-123.14 Craft brewery license; rights of licensee.

Any person who operates a craft brewery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a craft brewery shall permit the production of a maximum of twenty thousand barrels of beer per year in the aggregate from all physical locations comprising the licensed premises. A craft brewery may also sell to beer wholesalers for sale and distribution to licensed retailers. A craft brewery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of beer for consumption on or off the licensed premises, except that the sale of any beer other than beer manufac-

tured by the craft brewery licensee, wine, or alcoholic liquor by the drink for consumption on the licensed premises shall require the appropriate retail license. Any license held by the operator of a craft brewery shall be subject to the act. A holder of a craft brewery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, or an entertainment district license pursuant to section 53-123.17. For purposes of this section, licensed premises may include up to five separate physical locations.

Source: Laws 1988, LB 1089, § 3; Laws 1991, LB 344, § 25; Laws 1994, LB 1292, § 3; Laws 1996, LB 750, § 5; Laws 2012, LB780, § 3; Laws 2012, LB1130, § 4; Laws 2016, LB1105, § 12.

53-123.15 Shipping license; when required; rights of licensee; application; contents; violation; disciplinary action; holder of license; duties; report; contents.

(1) No person shall order or receive alcoholic liquor in this state which has been shipped directly to him or her from outside this state by any person other than a holder of a shipping license issued by the commission, except that a licensed wholesaler may receive not more than three gallons of wine in any calendar year from any person who is not a holder of a shipping license.

(2) The commission may issue a shipping license to a manufacturer. Such license shall allow the licensee to ship alcoholic liquor only to a licensed wholesaler. A person who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a manufacturer's shipping license. Such fee shall be collected by the commission and be remitted to the State Treasurer for credit to the General Fund, except that the fee received for a shipping license issued to a beer manufacturer pursuant to this subsection shall be credited to the Nebraska Beer Industry Promotional Fund.

(3) The commission may issue a shipping license to any person who deals with vintage wines, which shipping license shall allow the licensee to distribute such wines to a licensed wholesaler in the state. For purposes of distributing vintage wines, a licensed shipper must utilize a designated wholesaler if the manufacturer has a designated wholesaler. For purposes of this section, vintage wine shall mean a wine verified to be ten years of age or older and not available from a primary American source of supply. A person who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a vintage wine dealer's shipping license. Such fee shall be collected by the commission and be remitted to the State Treasurer for credit to the General Fund.

(4) The commission may issue a shipping license to any manufacturer who sells and ships alcoholic liquor from another state directly to a consumer in this state if the manufacturer satisfies the requirements of subsections (7) through (9) of this section. A manufacturer who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a manufacture direct sales shipping license. Such fee shall be collected by the commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund.

(5) The commission may issue a shipping license to any retailer who is licensed within or outside Nebraska, who is authorized to sell alcoholic liquor at retail in the state of domicile of the retailer, and who is not a manufacturer if

such retailer satisfies the requirements of subsections (7) through (9) of this section to ship alcoholic liquor from another state directly to a consumer in this state. A retailer who receives a license pursuant to this subsection shall pay the fee required in sections 53-124 and 53-124.01 for a retail direct sales shipping license. Such fee shall be collected by the commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund.

(6) The application for a shipping license under subsection (2) or (3) of this section shall be in such form as the commission prescribes. The application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:

(a) To comply with and be bound by sections 53-162 and 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;

(b) To permit and be subject to all of the powers granted by section 53-164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States; and

(c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers, the commission may suspend, cancel, or revoke such shipping license for such period of time as it may determine.

(7) The application for a shipping license under subsection (4) or (5) of this section shall be in such form as the commission prescribes. The application shall require an applicant which is a manufacturer, a craft brewery, a craft distillery, or a farm winery to identify the brands of alcoholic liquor that the applicant is requesting the authority to ship either into or within Nebraska. For all applicants, unless otherwise provided in this section, the application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers or retailers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:

(a) To comply with and be bound by sections 53-162 and 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;

(b) To permit and be subject to all of the powers granted by section 53-164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States;

(c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers or retailers, the commission may suspend, cancel, or revoke such shipping license for such period of time as it may determine;

(d) That the applicant agrees to notify the commission of any violations in the state in which he or she is domiciled and any violations of the direct shipping laws of any other states. Failure to notify the commission within thirty days after such a violation may result in a hearing before the commission pursuant to which the license may be suspended, canceled, or revoked; and

(e) That the applicant, if a manufacturer, craft brewery, craft distillery, or farm winery, agrees to notify any wholesaler licensed in Nebraska that has been authorized to distribute such brands that the application has been filed for a shipping license. The notice shall be in writing and in a form prescribed by the commission. The commission may adopt and promulgate rules and regulations as it reasonably deems necessary to implement this subdivision, including rules and regulations that permit the holder of a shipping license under this subdivision to amend the shipping license by, among other things, adding or deleting any brands of alcoholic liquor identified in the shipping license.

(8) Any manufacturer or retailer who is granted a shipping license under subsection (4) or (5) of this section shall:

(a) Only ship the brands of alcoholic liquor identified on the application;

(b) Only ship alcoholic liquor that is owned by the holder of the shipping license;

(c) Only ship alcoholic liquor that is properly registered with the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury;

(d) Not ship any alcoholic liquor products that the manufacturers or wholesalers licensed in Nebraska have voluntarily agreed not to bring into Nebraska at the request of the commission;

(e) Not ship more than nine liters of alcoholic liquor per month to any person in Nebraska to whom alcoholic beverages may be lawfully sold. All such sales and shipments shall be for personal consumption only and not for resale; and

(f) Cause the direct shipment of alcoholic liquor to be by approved common carrier only. The commission shall adopt and promulgate rules and regulations pursuant to which common carriers may apply for approval to provide common carriage of alcoholic liquor shipped by a holder of a shipping license issued pursuant to subsection (4) or (5) of this section. The rules and regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he or she is at least twenty-one years of age, (ii) the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the commission, and (iii) the commission-approved common carrier to submit to the commission such information as the commission may prescribe. The commission-approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of twenty-one years and refuses to present valid identification. All holders of shipping licenses shipping alcoholic liquor pursuant to this subdivision shall affix a conspicuous notice in sixteen-point type or larger to the outside of each package of alcoholic liquor shipped within or into the State of Nebraska, in a conspicuous location, stating: CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AT LEAST 21 YEARS OF AGE REQUIRED FOR DELIVERY. Any delivery of alcoholic beverages to a minor by a common carrier shall constitute a violation by the common carrier. The common carrier and the holder of the shipping license shall be liable only for their independent acts.

(9) For purposes of sections 53-160, 77-2703, and 77-27,142, each shipment of alcoholic liquor by the holder of a shipping license under subsection (3), (4), or (5) of this section shall constitute a sale in Nebraska by establishing a nexus in the state. The holder of the shipping license shall collect all the taxes due to the State of Nebraska and any political subdivision and remit any excise taxes monthly to the commission and any sales taxes to the Department of Revenue.

(10) By July 1, 2014, the commission shall report to the General Affairs Committee of the Legislature the number of shipping licenses issued for license years 2013-14 and 2014-15. The report shall be made electronically.

Source: Laws 1991, LB 344, § 49; Laws 1994, LB 416, § 1; Laws 1995, LB 874, § 1; Laws 2001, LB 671, § 1; Laws 2004, LB 485, § 14; Laws 2007, LB441, § 1; Laws 2010, LB861, § 55; Laws 2010, LB867, § 1; Laws 2011, LB286, § 1; Laws 2013, LB230, § 1; Laws 2015, LB330, § 13; Laws 2016, LB1105, § 13; Laws 2018, LB1120, § 10.

Effective date July 19, 2018.

53-123.16 Microdistillery license; rights of licensee.

Any person who operates a microdistillery shall obtain a license pursuant to the Nebraska Liquor Control Act. A license to operate a microdistillery shall permit the licensee to produce on the premises a maximum of ten thousand gallons of liquor per year. A microdistillery may also sell to licensed wholesalers for sale and distribution to licensed retailers. A microdistillery license issued pursuant to this section shall be the only license required by the Nebraska Liquor Control Act for the manufacture and retail sale of microdistilled product for consumption on or off the licensed premises, except that the sale of any beer, wine, or alcoholic liquor, other than microdistilled product manufactured by the microdistillery licensee, by the drink for consumption on the microdistillery premises shall require the appropriate retail license. Any license held by the operator of a microdistillery shall be subject to the act. A holder of a microdistillery license may obtain an annual catering license pursuant to section 53-124.12, a special designated license pursuant to section 53-124.11, or an entertainment district license pursuant to section 53-123.17. The commission may, upon the conditions it determines, grant to any microdistillery licensed under this section a special license authorizing the microdistillery to purchase and to import, from such persons as are entitled to sell the same, wines or spirits to be used solely as ingredients and for the sole purpose of blending with and flavoring microdistillery products as a part of the microdistillation process.

Source: Laws 2007, LB549, § 6; Laws 2012, LB1130, § 5.

53-123.17 Entertainment district license; rights of licensee; application; fee; commission; duties; occupation tax; local governing body; powers.

(1) A local governing body may designate an entertainment district in which a commons area may be used by retail, craft brewery, and microdistillery licensees and holders of a manufacturer's license which obtain an entertainment district license. The local governing body may, at any time, revoke such designation if it finds that the commons area threatens the health, safety, or welfare of the public or has become a common nuisance. The local governing

body shall file the designation or the revocation of the designation with the commission.

(2) An entertainment district license allows the sale of alcoholic liquor for consumption on the premises within the confines of a commons area. The consumption of alcoholic liquor in the commons area shall only occur during the hours authorized for sale of alcoholic liquor for consumption on the premises under section 53-179 and while food service is available in the commons area. Only the holder of an entertainment district license or employees of such licensee may sell or dispense alcoholic liquor in the commons area.

(3) An entertainment district licensee shall serve alcoholic liquor to be consumed in the commons area in containers that prominently displays the licensee's trade name or logo or some other mark that is unique to the licensee under the licensee's retail license, craft brewery license, microdistillery license, or manufacturer's license. An entertainment district licensee may allow alcohol sold by another entertainment district licensee to enter the licensed premises of either licensee. No entertainment district licensee shall allow alcoholic liquor to leave the commons area or the premises licensed under its retail license, craft brewery license, microdistillery license, or manufacturer's license.

(4) If the licensed premises of the holder of a license to sell alcoholic liquor at retail issued under subsection (6) of section 53-124, a craft brewery license, a microdistillery license, or a manufacturer's license is adjacent to a commons area in an entertainment district designated by a local governing body pursuant to this section, the holder of the license may obtain an annual entertainment district license as prescribed in this section. The entertainment district license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, microdistillery license, or manufacturer's license.

(5) In order to obtain an entertainment district license, a person eligible under subsection (4) of this section shall:

(a) File an application with the commission upon such forms as the commission prescribes; and

(b) Pay an additional license fee of three hundred dollars for the privilege of serving alcohol in the entertainment district payable to the clerk of the local governing body in the same manner as license fees under subdivision (4) of section 53-134.

(6) When an application for an entertainment district license is filed, the commission shall notify the clerk of the local governing body. The commission shall include with such notice one copy of the application by mail or electronic delivery. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(7) The local governing body may impose an occupation tax on the business of an entertainment district licensee doing business within the liquor license jurisdiction of the local governing body as provided in subdivision (11)(b) of this section in accordance with section 53-132.

(8) The local governing body with respect to entertainment district licensees within its liquor license jurisdiction as provided in subdivision (11)(b) of this section may cancel an entertainment district license for cause for the remainder of the period for which such entertainment district license is issued. Any person

whose entertainment district license is canceled may appeal to the commission in accordance with section 53-134.

(9) A local governing body may regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, any area it designates as an entertainment district.

(10) Violation of any provision of this section or any rules or regulations adopted and promulgated pursuant to this section by an entertainment district licensee may be cause to revoke, cancel, or suspend the retail license issued under subsection (6) of section 53-124, craft brewery license, microdistillery license, or manufacturer's license held by such licensee.

(11) For purposes of this section:

(a) Commons area means an area:

- (i) Within an entertainment district designated by a local governing body;
- (ii) Shared by authorized licensees with entertainment district licenses;
- (iii) Abutting the licensed premises of such licensees;
- (iv) Having limited pedestrian accessibility by use of a physical barrier, either on a permanent or temporary basis; and
- (v) Closed to vehicular traffic when used as a commons area.

Commons area may include any area of a public or private right-of-way if the area otherwise meets the requirements of this section; and

(b) Local governing body means the governing body of the city or village in which the entertainment district licensee is located.

Source: Laws 2012, LB1130, § 6; Laws 2016, LB1105, § 14.

53-124 Licenses; types; classification; fees; where paid; license year.

(1) At the time application is made to the commission for a license of any type, the applicant shall pay the fee provided in section 53-124.01 and, if the applicant is an individual, provide the applicant's social security number. The commission shall issue the types of licenses described in this section.

(2) There shall be an airline license, a boat license, a pedal-pub vehicle license, and a railroad license. The commission shall charge one dollar for each duplicate of an airline license, a pedal-pub vehicle license, or a railroad license.

(3)(a) There shall be a manufacturer's license for alcohol and spirits, for beer, and for wine. The annual fee for a manufacturer's license for beer shall be based on the barrel daily capacity as follows:

- (i) 1 to 100 barrel daily capacity, or any part thereof, tier one;
- (ii) 100 to 150 barrel daily capacity, tier two;
- (iii) 150 to 200 barrel daily capacity, tier three;
- (iv) 200 to 300 barrel daily capacity, tier four;
- (v) 300 to 400 barrel daily capacity, tier five;
- (vi) 400 to 500 barrel daily capacity, tier six;
- (vii) 500 barrel daily capacity, or more, tier seven.

(b) For purposes of this subsection, daily capacity means the average daily barrel production for the previous twelve months of manufacturing operation. If no such basis for comparison exists, the manufacturing licensee shall pay in advance for the first year's operation a fee of five hundred dollars.

(4) There shall be five classes of nonbeverage users' licenses: Class 1, Class 2, Class 3, Class 4, and Class 5.

(5) In lieu of a manufacturer's, a retailer's, or a wholesaler's license, there shall be a license to operate issued for a craft brewery, a farm winery, or a microdistillery.

(6)(a) There shall be six classes of retail licenses:

(i) Class A: Beer only, for consumption on the premises;

(ii) Class B: Beer only, for consumption off the premises, sales in the original packages only;

(iii) Class C: Alcoholic liquor, for consumption on the premises and off the premises, sales in original packages only. If a Class C license is held by a nonprofit corporation, it shall be restricted to consumption on the premises only. A Class C license may have a sampling designation restricting consumption on the premises to sampling, but such designation shall not affect sales for consumption off the premises under such license;

(iv) Class D: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, except as provided in subdivision (6)(a)(vi) of this section and subsection (2) of section 53-123.04;

(v) Class I: Alcoholic liquor, for consumption on the premises; and

(vi) Class J: Alcoholic liquor, including beer, for consumption off the premises, sales in the original packages only, for a retail licensee whose annual gross revenue from the sale of alcohol does not exceed twenty percent of the licensee's total annual gross revenue from all retail sales.

(b) All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village.

(7) There shall be four types of shipping licenses as described in section 53-123.15: Manufacturers, vintage wines, manufacture direct sales, and retail direct sales.

(8) There shall be two types of wholesale licenses: Alcoholic liquor and beer only. The annual fee shall be paid for the first and each additional wholesale place of business operated in this state by the same licensee and wholesaling the same product.

(9) There shall be a bottle club license. All applicable license fees shall be paid by the applicant or licensee directly to the city or village treasurer in the case of premises located inside the corporate limits of a city or village and directly to the county treasurer in the case of premises located outside the corporate limits of a city or village.

(10) The license year, unless otherwise provided in the Nebraska Liquor Control Act, shall commence on May 1 of each year and shall end on the following April 30, except that the license year for a Class C license shall commence on November 1 of each year and shall end on the following October 31. During the license year, no license shall be issued for a sum less than the amount of the annual license fee as fixed in section 53-124.01, regardless of the time when the application for such license has been made, except that (a) when there is a purchase of an existing licensed business and a new license of the same class is issued or (b) upon the issuance of a new license for a location

which has not been previously licensed, the license fee and occupation taxes shall be prorated on a quarterly basis as of the date of issuance.

Source: Laws 1935, c. 116, § 26, p. 391; C.S.Supp.,1941, § 53-326; R.S.1943, § 53-124; Laws 1955, c. 202, § 1, p. 576; Laws 1959, c. 249, § 2, p. 861; Laws 1961, c. 258, § 2, p. 761; Laws 1963, c. 309, § 2, p. 913; Laws 1963, c. 310, § 7, p. 927; Laws 1963, Spec. Sess., c. 5, § 3, p. 76; Laws 1965, c. 318, § 6, p. 893; Laws 1967, c. 332, § 6, p. 882; Laws 1967, c. 336, § 1, p. 897; Laws 1973, LB 111, § 4; Laws 1974, LB 681, § 5; Laws 1975, LB 414, § 1; Laws 1977, LB 237, § 1; Laws 1978, LB 386, § 4; Laws 1983, LB 133, § 2; Laws 1983, LB 213, § 3; Laws 1984, LB 947, § 1; Laws 1985, LB 279, § 8; Laws 1988, LB 1089, § 11; Laws 1989, LB 154, § 3; Laws 1989, LB 781, § 6; Laws 1991, LB 344, § 26; Laws 1993, LB 53, § 3; Laws 1993, LB 183, § 9; Laws 1994, LB 1313, § 3; Laws 1996, LB 750, § 6; Laws 1997, LB 752, § 131; Laws 2001, LB 278, § 4; Laws 2001, LB 671, § 2; Laws 2004, LB 485, § 15; Laws 2007, LB549, § 7; Laws 2009, LB355, § 3; Laws 2010, LB861, § 56; Laws 2010, LB867, § 2; Laws 2013, LB230, § 2; Laws 2015, LB330, § 16; Laws 2016, LB1105, § 15; Laws 2018, LB1120, § 11.
Effective date July 19, 2018.

53-124.01 Fees for annual licenses.

(1) The fees for annual licenses finally issued by the commission shall be as provided in this section and section 53-124.

- (2) Airline license . . . \$100
- (3) Boat license . . . \$50
- (4) Bottle club license . . . \$300
- (5) Manufacturer’s license:

| Class | Fee - In Dollars |
|---------------------|------------------|
| Alcohol and spirits | 1,000 |
| Beer - tier one | 100 |
| Beer - tier two | 200 |
| Beer - tier three | 350 |
| Beer - tier four | 500 |
| Beer - tier five | 650 |
| Beer - tier six | 700 |
| Beer - tier seven | 800 |
| Wine | 250 |

(6) Nonbeverage user’s license:

| Class | Fee - In Dollars |
|---------|------------------|
| Class 1 | 5 |
| Class 2 | 25 |
| Class 3 | 50 |
| Class 4 | 100 |
| Class 5 | 250 |

(7) Operator’s license:

| Class | Fee - In Dollars |
|-----------------|------------------|
| Craft brewery | 250 |
| Farm winery | 250 |
| Microdistillery | 250 |

(8) Pedal-pub vehicle license . . . \$50

(9) Railroad license . . . \$100

(10) Retail license:

| Class | Fee - In Dollars |
|---------|------------------|
| Class A | 100 |
| Class B | 100 |
| Class C | 300 |
| Class D | 200 |
| Class I | 250 |
| Class J | 50 |

(11) Shipping license:

| Class | Fee - In Dollars |
|--------------------------|------------------|
| Manufacturer | 1,000 |
| Vintage wines | 1,000 |
| Manufacture direct sales | 500 |
| Retail direct sales | 500 |

(12) Wholesale license:

| Class | Fee - In Dollars |
|------------------|------------------|
| Alcoholic liquor | 750 |
| Beer | 500 |

Source: Laws 2010, LB861, § 57; Laws 2013, LB230, § 3; Laws 2015, LB330, § 17; Laws 2016, LB1105, § 16; Laws 2018, LB1120, § 12.

Effective date July 19, 2018.

53-124.11 Special designated license; issuance; procedure; fee.

(1) The commission may issue a special designated license for sale or consumption of alcoholic liquor at a designated location to a retail licensee, a craft brewery licensee, a microdistillery licensee, a farm winery licensee, the holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, a municipal corporation, a fine arts museum incorporated as a nonprofit corporation, a religious nonprofit corporation which has been exempted from the payment of federal income taxes, a political organization which has been exempted from the payment of federal income taxes, or any other nonprofit corporation the purpose of which is fraternal, charitable, or public service and which has been exempted from the payment of federal income taxes, under conditions specified in this section. The applicant shall demonstrate meeting the requirements of this subsection.

(2) No retail licensee, craft brewery licensee, microdistillery licensee, farm winery licensee, holder of a manufacturer's license issued pursuant to subsection (2) of section 53-123.01, organization, or corporation enumerated in subsection (1) of this section may be issued a special designated license under

this section for more than six calendar days in any one calendar year. Only one special designated license shall be required for any application for two or more consecutive days. This subsection shall not apply to any holder of a catering license.

(3) Except for any special designated license issued to a holder of a catering license, there shall be a fee of forty dollars for each day identified in the special designated license. Such fee shall be submitted with the application for the special designated license, collected by the commission, and remitted to the State Treasurer for credit to the General Fund. The applicant shall be exempt from the provisions of the Nebraska Liquor Control Act requiring an application or renewal fee and the provisions of the act requiring the expiration of forty-five days from the time the application is received by the commission prior to the issuance of a license, if granted by the commission. The retail licensees, craft brewery licensees, microdistillery licensees, farm winery licensees, holders of manufacturer's licenses issued pursuant to subsection (2) of section 53-123.01, municipal corporations, organizations, and nonprofit corporations enumerated in subsection (1) of this section seeking a special designated license shall file an application on such forms as the commission may prescribe. Such forms shall contain, along with other information as required by the commission, (a) the name of the applicant, (b) the premises for which a special designated license is requested, identified by street and number if practicable and, if not, by some other appropriate description which definitely locates the premises, (c) the name of the owner or lessee of the premises for which the special designated license is requested, (d) sufficient evidence that the holder of the special designated license, if issued, will carry on the activities and business authorized by the license for himself, herself, or itself and not as the agent of any other person, group, organization, or corporation, for profit or not for profit, (e) a statement of the type of activity to be carried on during the time period for which a special designated license is requested, and (f) sufficient evidence that the activity will be supervised by persons or managers who are agents of and directly responsible to the holder of the special designated license.

(4) No special designated license provided for by this section shall be issued by the commission without the approval of the local governing body. The local governing body may establish criteria for approving or denying a special designated license. The local governing body may designate an agent to determine whether a special designated license is to be approved or denied. Such agent shall follow criteria established by the local governing body in making his or her determination. The determination of the agent shall be considered the determination of the local governing body unless otherwise provided by the local governing body. For purposes of this section, the local governing body shall be the city or village within which the premises for which the special designated license is requested are located or, if such premises are not within the corporate limits of a city or village, then the local governing body shall be the county within which the premises for which the special designated license is requested are located.

(5) If the applicant meets the requirements of this section, a special designated license shall be granted and issued by the commission for use by the holder of the special designated license. All statutory provisions and rules and regulations of the commission that apply to a retail licensee shall apply to the holder of a special designated license with the exception of such statutory provisions

and rules and regulations of the commission so designated by the commission and stated upon the issued special designated license, except that the commission may not designate exemption of sections 53-180 to 53-180.07. The decision of the commission shall be final. If the applicant does not qualify for a special designated license, the application shall be denied by the commission.

(6) A special designated license issued by the commission shall be mailed or delivered to the city, village, or county clerk who shall deliver such license to the licensee upon receipt of any fee or tax imposed by such city, village, or county.

Source: Laws 1983, LB 213, § 9; Laws 1988, LB 490, § 5; Laws 1991, LB 344, § 27; Laws 1994, LB 1292, § 4; Laws 1996, LB 750, § 7; Laws 2000, LB 973, § 4; Laws 2006, LB 562, § 4; Laws 2007, LB549, § 8; Laws 2010, LB861, § 58; Laws 2016, LB1105, § 17.

53-124.12 Annual catering license; issuance; procedure; fee; occupation tax.

(1) The holder of a license to sell alcoholic liquor at retail issued under subsection (6) of section 53-124, a craft brewery license, a microdistillery license, a farm winery license, or a manufacturer's license issued under subsection (2) of section 53-123.01 may obtain an annual catering license as prescribed in this section. The catering license shall be issued for the same period and may be renewed in the same manner as the retail license, craft brewery license, microdistillery license, farm winery license, or manufacturer's license.

(2) Any person desiring to obtain a catering license shall file with the commission:

(a) An application in triplicate original upon such forms as the commission prescribes; and

(b) A license fee of one hundred dollars payable to the commission, which fee shall be returned to the applicant if the application is denied.

(3) When an application for a catering license is filed, the commission shall notify the clerk of the city or incorporated village in which such applicant is located or, if the applicant is not located within a city or incorporated village, the county clerk of the county in which such applicant is located, of the receipt of the application. The commission shall include with such notice one copy of the application by mail or electronic delivery. The local governing body and the commission shall process the application in the same manner as provided in section 53-132.

(4) The local governing body with respect to catering licensees within its liquor license jurisdiction as provided in subsection (5) of this section may cancel a catering license for cause for the remainder of the period for which such catering license is issued. Any person whose catering license is canceled may appeal to the district court of the county in which the local governing body is located.

(5) For purposes of this section, local governing body means (a) the governing body of the city or village in which the catering licensee is located or (b) if such licensee is not located within a city or village, the governing body of the county in which such licensee is located.

(6) The local governing body may impose an occupation tax on the business of a catering licensee doing business within the liquor license jurisdiction of the

local governing body as provided in subsection (5) of this section. Such tax may not exceed double the license fee to be paid under this section.

Source: Laws 1988, LB 490, § 1; Laws 1991, LB 344, § 28; Laws 1994, LB 1292, § 5; Laws 1996, LB 750, § 8; Laws 2001, LB 278, § 5; Laws 2004, LB 485, § 17; Laws 2006, LB 562, § 5; Laws 2007, LB549, § 9; Laws 2010, LB861, § 59; Laws 2011, LB407, § 4; Laws 2016, LB1105, § 18.

53-124.14 Applicants outside cities and villages; airport authorities; Nebraska State Fair Board; issuance of licenses; when permitted.

(1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (6)(a)(iii) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the Nebraska State Fair Board.

Source: Laws 1991, LB 582, § 2; Laws 2001, LB 278, § 6; Laws 2002, LB 1236, § 17; Laws 2004, LB 485, § 18; Laws 2010, LB861, § 61; Laws 2017, LB1113, § 47.

53-125 Classes of persons to whom no license issued.

No license of any kind shall be issued to (1) a person who is not a resident of Nebraska, except in case of railroad, airline, or boat licenses, (2) a person who is not of good character and reputation in the community in which he or she resides, (3) a person who is not a Nebraska resident and legally able to work in Nebraska, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States, (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this subdivision on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983, (6) a person whose license issued under the Nebraska Liquor Control Act has been revoked for cause, (7) a person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application, (8) a partnership, unless one of the partners is a resident of Nebraska and unless all the members of such partnership are otherwise qualified to obtain a license, (9) a limited liability company, if any officer or director of the limited liability company or any member having an ownership interest in the aggregate of more than twenty-five percent of such company

would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a limited liability company licensee would be ineligible to receive a license under this section for any reason, (10) a corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This subdivision shall not apply to railroad licenses, (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, (12) a person who does not own the premises for which a license is sought or does not have a lease or combination of leases on such premises for the full period for which the license is to be issued, (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated, (14) a person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal, (15) a law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization, or (16) a person less than twenty-one years of age.

When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent.

Source: Laws 1935, c. 116, § 28, p. 395; C.S.Supp.,1941, § 53-328; R.S.1943, § 53-125; Laws 1957, c. 230, § 1, p. 788; Laws 1959, c. 249, § 3, p. 864; Laws 1965, c. 318, § 7, p. 897; Laws 1967, c. 332, § 7, p. 887; Laws 1971, LB 752, § 2; Laws 1973, LB 111, § 6; Laws 1975, LB 414, § 2; Laws 1976, LB 204, § 3; Laws 1979, LB 224, § 1; Laws 1980, LB 848, § 5; Laws 1983, LB 213, § 10; Laws 1986, LB 871, § 3; Laws 1991, LB 344, § 30; Laws 1993, LB 121, § 319; Laws 1994, LB 1292, § 6; Laws 2010, LB788, § 2; Laws 2010, LB861, § 62; Laws 2016, LB1105, § 19.

53-129 Retail, bottle club, craft brewery, and microdistillery licenses; premises to which applicable.

Retail, bottle club, craft brewery, and microdistillery licenses issued under the Nebraska Liquor Control Act apply only to that part of the premises described in the application approved by the commission and in the license issued on the application. For retail, bottle club, and microdistillery licenses, only one location shall be described in each license. For craft brewery licenses,

up to five separate physical locations may be described in each license. After such license has been granted for particular premises, the commission, with the approval of the local governing body and upon proper showing, may endorse upon the license permission to add to, delete from, or abandon the premises described in such license and, if applicable, to move from the premises to other premises approved by it, but in order to obtain such approval the retail, bottle club, craft brewery, or microdistillery licensee shall file with the local governing body a request in writing and a statement under oath which shows that the premises as added to or deleted from or to which such move is to be made comply in all respects with the requirements of the act. No such addition, deletion, or move shall be made by any such licensee until the license has been endorsed to that effect in writing by the local governing body and by the commission and the licensee furnishes proof of payment of the renewal fee prescribed in subsection (4) of section 53-131.

Source: Laws 1935, c. 116, § 49, p. 405; C.S.Supp.,1941, § 53-349; R.S.1943, § 53-129; Laws 1978, LB 386, § 5; Laws 1980, LB 848, § 6; Laws 1983, LB 213, § 11; Laws 1988, LB 1089, § 12; Laws 1989, LB 781, § 8; Laws 1993, LB 183, § 10; Laws 1994, LB 1292, § 7; Laws 1999, LB 267, § 7; Laws 2004, LB 485, § 19; Laws 2007, LB549, § 10; Laws 2010, LB861, § 63; Laws 2016, LB1105, § 20; Laws 2018, LB1120, § 13.
Effective date July 19, 2018.

53-130 Licenses; manufacturers, wholesalers, railroads, airlines, boats, pedal-pub vehicles, and nonbeverage users; conditions on issuance; fees; renewal.

(1) New licenses to manufacturers, wholesalers, railroads, airlines, boats, pedal-pub vehicles, and nonbeverage users of alcoholic liquor may be issued by the commission upon (a) written application in duplicate filed in the manner and on such forms as the commission prescribes and in which the applicant for a beer wholesale license sets forth the sales territory in Nebraska in which it is authorized by a manufacturer or manufacturers to sell their brand or brands and the name of such brand or brands, (b) receipt of bond, (c) payment in advance of the nonrefundable application fee of forty-five dollars and the license fee, and (d) such notice and hearing as the commission fixes by its own order.

(2) A notice of such application shall be served upon the manufacturer or manufacturers listed in any application for a beer wholesale license and upon any existing wholesaler licensed to sell the brand or brands in the described sales territory.

(3) A license so issued may be renewed without formal application upon payment of license fees and a renewal fee of forty-five dollars prior to or within thirty days after the expiration of the license. The payment of such fees shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application.

Source: Laws 1935, c. 116, § 81, p. 417; C.S.Supp.,1941, § 53-381; R.S.1943, § 53-130; Laws 1959, c. 247, § 1, p. 848; Laws 1959, c. 249, § 5, p. 865; Laws 1967, c. 332, § 8, p. 888; Laws 1971,

LB 234, § 19; Laws 1972, LB 66, § 2; Laws 1991, LB 202, § 3; Laws 1991, LB 344, § 32; Laws 2000, LB 973, § 5; Laws 2010, LB861, § 64; Laws 2015, LB330, § 18.

53-131 Retail, bottle club, craft brewery, and microdistillery licenses; application; fees; notice of application to city, village, or county; cigar shop; information required; renewal; fee.

(1) Any person desiring to obtain a new license to sell alcoholic liquor at retail, a bottle club license, a craft brewery license, or a microdistillery license shall file with the commission:

(a) An application upon forms prescribed by the commission, including the information required by subsection (3) of this section for an application to operate a cigar shop;

(b) The license fee if under sections 53-124 and 53-124.01 such fee is payable to the commission, which fee shall be returned to the applicant if the application is denied; and

(c) The nonrefundable application fee in the sum of four hundred dollars, except that the nonrefundable application fee for an application for a cigar shop shall be one thousand dollars.

(2) The commission shall notify the clerk of the city or village in which such license is sought or, if the license sought is not sought within a city or village, the county clerk of the county in which such license is sought, of the receipt of the application and shall include one copy of the application with the notice. No such license shall be issued or denied by the commission until the expiration of the time allowed for the receipt of a recommendation of denial or an objection requiring a hearing under subdivision (1)(a) or (b) of section 53-133. During the period of forty-five days after the date of receipt by mail or electronic delivery of such application from the commission, the local governing body of such city, village, or county may make and submit to the commission recommendations relative to the granting or refusal to grant such license to the applicant.

(3) For an application to operate a cigar shop, the application shall include proof of the cigar shop's annual gross revenue as requested by the commission and such other information as requested by the commission to establish the intent to operate as a cigar shop. The commission may adopt and promulgate rules and regulations to regulate cigar shops. The rules and regulations existing on August 1, 2014, applicable to cigar bars shall apply to cigar shops until amended or repealed by the commission.

(4) For renewal of a license under this section, a licensee shall file with the commission an application, the license fee as provided in subdivision (1)(b) of this section, and a renewal fee of forty-five dollars.

Source: Laws 1935, c. 116, § 82, p. 417; C.S.Supp.,1941, § 53-382; R.S.1943, § 53-131; Laws 1955, c. 203, § 1, p. 580; Laws 1959, c. 249, § 6, p. 866; Laws 1976, LB 413, § 1; Laws 1980, LB 848, § 7; Laws 1982, LB 928, § 42; Laws 1983, LB 213, § 12; Laws 1984, LB 947, § 2; Laws 1986, LB 911, § 3; Laws 1988, LB 550, § 1; Laws 1988, LB 1089, § 13; Laws 1989, LB 781, § 9; Laws 1991, LB 202, § 4; Laws 1991, LB 344, § 34; Laws 1993, LB 183, § 11; Laws 1996, LB 750, § 9; Laws 1999, LB 267, § 8;

Laws 2000, LB 973, § 6; Laws 2001, LB 278, § 7; Laws 2004, LB 485, § 20; Laws 2007, LB549, § 11; Laws 2009, LB355, § 4; Laws 2010, LB861, § 65; Laws 2011, LB407, § 5; Laws 2015, LB118, § 4; Laws 2015, LB330, § 19; Laws 2018, LB1120, § 14. Effective date July 19, 2018.

53-131.01 License; application; form; contents; criminal history record check; verification; false statement; penalty.

(1) The application for a new license shall be submitted upon such forms as the commission may prescribe. Such forms shall contain (a) the name and residence of the applicant and how long he or she has resided within the State of Nebraska, (b) the particular premises for which a license is desired designating the same by street and number if practicable or, if not, by such other description as definitely locates the premises, (c) the name of the owner of the premises upon which the business licensed is to be carried on, (d) a statement that the applicant is a resident of Nebraska and legally able to work in Nebraska, that the applicant and the spouse of the applicant are not less than twenty-one years of age, and that such applicant has never been convicted of or pleaded guilty to a felony or been adjudged guilty of violating the laws governing the sale of alcoholic liquor or the law for the prevention of gambling in the State of Nebraska, except that a manager for a corporation applying for a license shall qualify with all provisions of this subdivision as though the manager were the applicant, except that the provisions of this subdivision shall not apply to the spouse of a manager-applicant, (e) a statement that the applicant intends to carry on the business authorized by the license for himself or herself and not as the agent of any other persons and that if licensed he or she will carry on such business for himself or herself and not as the agent for any other person, (f) a statement that the applicant intends to superintend in person the management of the business licensed and that if so licensed he or she will superintend in person the management of the business, and (g) such other information as the commission may from time to time direct. The applicant shall also submit two legible sets of fingerprints to be furnished to the Federal Bureau of Investigation through the Nebraska State Patrol for a national criminal history record check and the fee for such record check payable to the patrol.

(2) The application shall be verified by the affidavit of the petitioner made before a notary public or other person duly authorized by law to administer oaths. If any false statement is made in any part of such application, the applicant or applicants shall be deemed guilty of perjury, and upon conviction thereof the license shall be revoked and the applicant subjected to the penalties provided by law for that crime.

Source: Laws 1935, c. 116, § 99, p. 427; C.S.Supp.,1941, § 53-399; R.S.1943, § 53-142; Laws 1959, c. 249, § 13, p. 872; Laws 1979, LB 224, § 4; Laws 1980, LB 848, § 9; Laws 1991, LB 344, § 35; Laws 2003, LB 267, § 1; Laws 2016, LB1105, § 21.

53-132 Retail, bottle club, craft brewery, or microdistillery license; commission; duties.

(1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section 53-133 and the commission has no objections pursuant to subdivision (1)(c) of

such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, bottle club license, craft brewery license, or microdistillery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, bottle club license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

(a) The recommendation of the local governing body;

(b) The existence of a citizens' protest made in accordance with section 53-133;

(c) The existing population of the city, village, or county and its projected growth;

(d) The nature of the neighborhood or community of the location of the proposed licensed premises;

(e) The existence or absence of other retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises and whether, as evidenced by substantive, corroborative documentation, the issuance of such license would result in or add to an undue concentration of licenses with similar privileges and, as a result, require the use of additional law enforcement resources;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, bottle club licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or delivered to the clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (a) the license fee if by the terms of subsection (6) of section 53-124 the fee is payable to the treasurer of such city, village, or county, (b) any fee for publication of notice of

hearing before the local governing body upon the application for the license, (c) the fee for publication of notice of renewal as provided in section 53-135.01, and (d) occupation taxes, if any, imposed by such city, village, or county except as otherwise provided in subsection (6) of this section. Notwithstanding any ordinance or charter power to the contrary, no city, village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(5) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

(6) Class J retail licensees shall not be subject to occupation taxes under subsection (4) of this section.

Source: Laws 1935, c. 116, § 83, p. 419; C.S.Supp.,1941, § 53-383; R.S.1943, § 53-132; Laws 1957, c. 228, § 3, p. 780; Laws 1957, c. 242, § 45, p. 856; Laws 1959, c. 246, § 1, p. 845; Laws 1959, c. 247, § 2, p. 848; Laws 1959, c. 248, § 1, p. 857; Laws 1959, c. 249, § 7, p. 867; Laws 1976, LB 413, § 2; Laws 1981, LB 124, § 2; Laws 1984, LB 947, § 3; Laws 1986, LB 911, § 4; Laws 1988, LB 1089, § 14; Laws 1989, LB 780, § 9; Laws 1989, LB 781, § 10; Laws 1991, LB 344, § 36; Laws 1993, LB 183, § 12; Laws 1999, LB 267, § 9; Laws 2004, LB 485, § 21; Laws 2006, LB 845, § 2; Laws 2007, LB549, § 12; Laws 2010, LB861, § 66; Laws 2016, LB1105, § 22; Laws 2018, LB1120, § 15.
Effective date July 19, 2018.

53-133 Retail, bottle club, craft brewery, and microdistillery licenses; hearing; when held; procedure.

(1) The commission shall set for hearing before it any application for a retail license, bottle club license, craft brewery license, or microdistillery license relative to which it has received:

(a) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, a recommendation of denial from the city, village, or county;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections in writing by not less than three persons residing within such city, village, or county, protesting the issuance of the license. Withdrawal of the protest does not prohibit the commission from conducting a hearing based upon the protest as originally filed and making an independent finding as to whether the license should or should not be issued;

(c) Within forty-five days after the date of receipt of such application by the city, village, or county clerk, objections by the commission or any duly appointed employee of the commission, protesting the issuance of the license; or

(d) An indication on the application that the location of a proposed retail or bottle club establishment is within one hundred fifty feet of a church as

described in subsection (2) of section 53-177 and a written request by the church for a hearing.

(2) Hearings upon such applications shall be in the following manner: Notice indicating the time and place of such hearing shall be mailed or electronically delivered to the applicant, the local governing body, each individual protesting a license pursuant to subdivision (1)(b) of this section, and any church affected as described in subdivision (1)(d) of this section, at least fifteen days prior to such hearing. The notice shall state that the commission will receive evidence for the purpose of determining whether to approve or deny the application. Mailing or electronic delivery to the attorney of record of a party shall be deemed to fulfill the purposes of this section. The commission may receive evidence, including testimony and documentary evidence, and may hear and question witnesses concerning the application. The commission shall not use electronic delivery with respect to an applicant, a protestor, or a church under this section without the consent of the recipient to electronic delivery.

Source: Laws 1935, c. 116, § 84, p. 420; C.S.Supp.,1941, § 53-384; R.S.1943, § 53-133; Laws 1959, c. 249, § 8, p. 868; Laws 1961, c. 260, § 1, p. 774; Laws 1976, LB 413, § 3; Laws 1979, LB 224, § 2; Laws 1983, LB 213, § 13; Laws 1986, LB 911, § 5; Laws 1988, LB 550, § 2; Laws 1989, LB 781, § 11; Laws 1993, LB 183, § 13; Laws 1999, LB 267, § 10; Laws 2004, LB 485, § 22; Laws 2007, LB549, § 13; Laws 2010, LB861, § 67; Laws 2011, LB407, § 6; Laws 2015, LB330, § 20; Laws 2018, LB1120, § 16. Effective date July 19, 2018.

53-134 Retail, bottle club, craft brewery, microdistillery, and entertainment district licenses; city and village governing bodies; county boards; powers, functions, and duties.

The local governing body of any city or village with respect to licenses within its corporate limits and the local governing body of any county with respect to licenses not within the corporate limits of any city or village but within the county shall have the following powers, functions, and duties with respect to retail, bottle club, craft brewery, microdistillery, and entertainment district licenses:

(1) To cancel or revoke for cause retail, craft brewery, microdistillery, or entertainment district licenses to sell or dispense alcoholic liquor or bottle club licenses, issued to persons for premises within its jurisdiction, subject to the right of appeal to the commission;

(2) To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed under the Nebraska Liquor Control Act to determine whether any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated and at such time examine the premises of such licensee in connection with such determination. Any law enforcement officer who determines that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation adopted by the local governing body has been or is being violated shall report such violation in writing to the executive director of the commission (a) within thirty days after determining that such violation has occurred, (b) within thirty days after the conclusion of

an ongoing police investigation, or (c) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later;

(3) To receive a signed complaint from any citizen within its jurisdiction that any provision of the act, any rule or regulation adopted and promulgated pursuant to the act, or any ordinance, resolution, rule, or regulation relating to alcoholic liquor has been or is being violated and to act upon such complaints in the manner provided in the act;

(4) To receive retail license fees, bottle club license fees, craft brewery license fees, and microdistillery license fees as provided in sections 53-124 and 53-124.01 and entertainment district license fees as provided in section 53-123.17 and pay the same, after the license has been delivered to the applicant, to the city, village, or county treasurer;

(5) To examine or cause to be examined any applicant or any retail licensee, bottle club licensee, craft brewery licensee, microdistillery licensee, or entertainment district licensee upon whom notice of cancellation or revocation has been served as provided in the act, to examine or cause to be examined the books and records of any applicant or licensee except as otherwise provided for bottle club licensees in section 53-123.08, and to hear testimony and to take proof for its information in the performance of its duties. For purposes of obtaining any of the information desired, the local governing body may authorize its agent or attorney to act on its behalf;

(6) To cancel or revoke on its own motion any license if, upon the same notice and hearing as provided in section 53-134.04, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rule, or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor. Such order of cancellation or revocation may be appealed to the commission within thirty days after the date of the order by filing a notice of appeal with the commission. The commission shall handle the appeal in the manner provided for hearing on an application in section 53-133; and

(7) Upon receipt from the commission of the notice and copy of application as provided in section 53-131, to fix a time and place for a hearing at which the local governing body shall receive evidence, either orally or by affidavit from the applicant and any other person, bearing upon the propriety of the issuance of a license. Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in such city, village, or county one time not less than seven and not more than fourteen days before the time of the hearing. Such notice shall include, but not be limited to, a statement that all persons desiring to give evidence before the local governing body in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than forty-five days after the date of receipt of the notice from the commission, and after such hearing the local governing body shall cause to be recorded in the minute record of their proceedings a resolution recommending either issuance or refusal of such license. The clerk of such city, village, or county shall mail to the commission by first-class mail, postage prepaid, a copy of the resolution which shall state the cost of the published notice, except that failure to comply with this provision shall not void any license issued by the commission. If the commis-

sion refuses to issue such a license, the cost of publication of notice shall be paid by the commission from the security for costs.

Source: Laws 1935, c. 116, § 85, p. 421; C.S.Supp.,1941, § 53-385; R.S.1943, § 53-134; Laws 1949, c. 169, § 1(1), p. 447; Laws 1959, c. 249, § 9, p. 868; Laws 1967, c. 332, § 9, p. 888; Laws 1983, LB 213, § 14; Laws 1984, LB 947, § 4; Laws 1986, LB 911, § 6; Laws 1988, LB 352, § 92; Laws 1988, LB 550, § 3; Laws 1988, LB 1089, § 15; Laws 1989, LB 780, § 10; Laws 1989, LB 781, § 12; Laws 1991, LB 344, § 37; Laws 1993, LB 183, § 14; Laws 1999, LB 267, § 11; Laws 2001, LB 278, § 8; Laws 2004, LB 485, § 23; Laws 2007, LB549, § 14; Laws 2010, LB861, § 68; Laws 2011, LB641, § 1; Laws 2012, LB1130, § 7; Laws 2018, LB1120, § 17.
Effective date July 19, 2018.

53-134.01 Class C license holder; limited bottling endorsement; application; fee; conditions of sale.

(1) The holder of a Class C license may obtain a limited bottling endorsement for such license as prescribed in this section. The endorsement shall be issued for the same period and may be renewed in the same manner as the Class C license. A limited bottling endorsement may not be used in conjunction with a special designated license.

(2) A licensee desiring to obtain a limited bottling endorsement for a license shall file with the commission an application upon such forms as the commission prescribes and a fee of three hundred dollars payable to the commission.

(3) The holder of a limited bottling endorsement may sell beer for consumption off the licensed premises in sealed containers filled as provided in this subsection if:

(a) The sale occurs on the licensed premises of the licensee during the hours the licensee is authorized to sell beer;

(b) The licensee uses sanitary containers purchased by the customer from the licensee or exchanged for containers previously purchased by the customer from the licensee. The containers shall prominently display the endorsement holder's trade name or logo or some other mark that is unique to the endorsement holder and shall hold no more than sixty-four ounces;

(c) The licensee seals the container in a manner designed so that it is visibly apparent whether the sealed container has been tampered with or opened or seals the container and places the container in a bag designed so that it is visibly apparent whether the sealed container has been tampered with or opened; and

(d) The licensee provides a dated receipt to the customer and attaches a copy of the dated receipt to the sealed container or, if the sealed container is placed in a bag, to the bag.

Source: Laws 2015, LB330, § 14; Laws 2018, LB1120, § 18.
Effective date July 19, 2018.

53-134.03 Retail, bottle club, craft brewery, and microdistillery licenses; regulation by cities and villages.

The governing bodies of cities and villages are authorized to regulate by ordinance, not inconsistent with the Nebraska Liquor Control Act, the business of all retail, bottle club, craft brewery, or microdistillery licensees carried on within the corporate limits of the city or village.

Source: Laws 1935, c. 116, § 104, p. 429; C.S.Supp.,1941, § 53-3,104; R.S.1943, § 53-147; Laws 1980, LB 848, § 11; Laws 1989, LB 781, § 14; R.S.Supp.,1990, § 53-147; Laws 1991, LB 344, § 38; Laws 1993, LB 183, § 16; Laws 1999, LB 267, § 12; Laws 2004, LB 485, § 24; Laws 2007, LB549, § 15; Laws 2018, LB1120, § 19.

Effective date July 19, 2018.

53-134.04 Violations by retail licensee or bottle club licensee; complaints of residents; hearings.

Any five residents of the city or village shall have the right to file a complaint with the local governing body of such city or village stating that any retail licensee or bottle club licensee subject to the jurisdiction of such local governing body has been or is violating any provision of the Nebraska Liquor Control Act or the rules or regulations issued pursuant to the act. Such complaint shall be in writing in the form prescribed by the local governing body and shall be signed and sworn to by the parties complaining. The complaint shall state the particular provision, rule, or regulation believed to have been violated and the facts in detail upon which belief is based. If the local governing body is satisfied that the complaint substantially charges a violation and that from the facts alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint shall in all cases be disposed of by the local governing body within thirty days from the date the complaint was filed by resolution thereof, which resolution shall be deemed the final order for purposes of appeal to the commission as provided in section 53-1,115.

Source: Laws 1935, c. 116, § 88, p. 422; C.S.Supp.,1941, § 53-388; R.S.1943, § 53-1,114; Laws 1980, LB 848, § 21; R.S.1943, (1988), § 53-1,114; Laws 1991, LB 344, § 39; Laws 2004, LB 485, § 25; Laws 2018, LB1120, § 20.

Effective date July 19, 2018.

53-135 Retail or bottle club licenses; automatic renewal; conditions.

A retail or bottle club license issued by the commission and outstanding may be automatically renewed by the commission without formal application upon payment of the renewal fee and license fee if payable to the commission prior to or within thirty days after the expiration of the license. The payment shall be an affirmative representation and certification by the licensee that all answers contained in an application, if submitted, would be the same in all material respects as the answers contained in the last previous application. The commission may at any time require a licensee to submit an application, and the commission shall at any time require a licensee to submit an application if requested in writing to do so by the local governing body.

If a licensee files an application form in triplicate original upon seeking renewal of his or her license, the application shall be processed as set forth in section 53-131.

Source: Laws 1935, c. 116, § 86, p. 421; C.S.Supp.,1941, § 53-386; R.S.1943, § 53-135; Laws 1959, c. 249, § 10, p. 870; Laws 1983, LB 213, § 15; Laws 1984, LB 820, § 1; Laws 1988, LB 1089, § 16; Laws 1991, LB 344, § 40; Laws 2004, LB 485, § 26; Laws 2010, LB861, § 69; Laws 2015, LB330, § 21; Laws 2016, LB1105, § 23; Laws 2018, LB1120, § 21.
Effective date July 19, 2018.

53-135.01 Retail licenses; bottle club licenses; renewal; notice.

The city, village, or county clerk shall cause to be published in a legal newspaper in or of general circulation in such city, village, or county, one time between January 10 and January 30 of each year, individual notice of the right of automatic renewal of each retail liquor and beer license and each bottle club license, except that notice of the right of automatic renewal of Class C licenses shall be published between the dates of July 10 and July 30 of each year within such city, village, or county, in substantially the following form:

NOTICE OF RENEWAL OF RETAIL LIQUOR OR BOTTLE CLUB LICENSE

Notice is hereby given pursuant to section 53-135.01 that a liquor license [or bottle club license] may be automatically renewed for one year from May 1, 20...., or November 1, 20...., for the following retail liquor [or bottle club] licensee:

(Name of Licensee) (Address of licensed premises)

Notice is hereby given that written protests to the issuance of automatic renewal of license may be filed by any resident of the city (village or county) on or before February 10, 20...., or August 10, 20...., in the office of the city (village or county) clerk and that in the event protests are filed by three or more such persons, hearing will be had to determine whether continuation of the license should be allowed.

(Name)

City (village or county) Clerk

Upon the conclusion of any hearing required by this section, the local governing body may request a licensee to submit an application as provided in section 53-135.

Source: Laws 1959, c. 249, § 11, p. 870; Laws 1961, c. 260, § 2, p. 779; Laws 1974, LB 681, § 6; Laws 1979, LB 224, § 3; Laws 1983, LB 213, § 16; Laws 1991, LB 344, § 41; Laws 2004, LB 813, § 23; Laws 2018, LB1120, § 22.
Effective date July 19, 2018.

53-136 Cigar shops; legislative findings; legislative intent.

(1) The Legislature finds that allowing smoking in cigar shops as a limited exception to the Nebraska Clean Indoor Air Act does not interfere with the original intent that the general public and employees not be unwillingly subjected to second-hand smoke. This exception poses a de minimis restriction on the public and employees given the limited number of cigar shops compared

to other businesses that sell alcohol, cigars, and pipe tobacco, and any member of the public should reasonably expect that there would be second-hand smoke in a cigar shop given the nature of the business and could choose to avoid such exposure.

(2) The Legislature finds that (a) cigars and pipe tobacco have different characteristics than other forms of tobacco such as cigarettes, (b) cigars are customarily paired with various spirits such as cognac, single malt whiskey, bourbon, rum, rye, port, and others, and (c) unlike cigarette smokers, cigar and pipe smokers may take an hour or longer to enjoy a cigar or pipe while cigarettes simply serve as a mechanism for delivering nicotine. Cigars paired with selected liquor creates a synergy unique to the particular pairing similar to wine paired with particular foods. Cigars are a pure, natural product wrapped in a tobacco leaf that is typically not inhaled in order to enjoy the taste of the smoke, unlike cigarettes that tend to be processed with additives and wrapped in paper and are inhaled. Cigars have a different taste and smell than cigarettes due to the fermentation process cigars go through during production. Cigars tend to cost considerably more than cigarettes, and their quality and characteristics vary depending on the type of tobacco plant, the geography and climate where the tobacco was grown, and the overall quality of the manufacturing process. Not only does the customized blending of the tobacco influence the smoking experience, so does the freshness of the cigars, which is dependent on how the cigars were stored and displayed. These variables are similar to fine wines, which can also be very expensive to purchase. It is all of these variables that warrant a customer wanting to sample the product before making such a substantial purchase.

(3) The Legislature finds that exposure to second-hand smoke is inherent in the selling and sampling of cigars and pipe tobacco and that this exposure is inextricably connected to the nature of selling this legal product, similar to other inherent hazards in other professions and employment.

(4) It is the intent of the Legislature to allow cigar and pipe smoking in cigar shops that meet specific statutory criteria not inconsistent with the fundamental nature of the business. This exception to the Nebraska Clean Indoor Air Act is narrowly tailored in accordance with the intent of the act to protect public places and places of employment.

Source: Laws 2015, LB118, § 5.

Cross References

Nebraska Clean Indoor Air Act, see section 71-5716.

53-137 Cigar shop license; prohibited acts; sign required; waiver signed by employee; form.

(1) The holder of a cigar shop license shall not allow a person under twenty-one years of age to smoke or purchase any product in the cigar shop.

(2) The licensee shall post a sign on all entrances to the cigar shop, on the outside of each door, in a conspicuous location slightly above or next to the door, with the following statement: SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES IS NOT ALLOWED.

(3) Beginning November 1, 2015, the licensee shall provide to the commission a copy of a waiver signed prior to employment by each employee on a

form prescribed by the commission. The waiver shall expressly notify the employee that he or she will be exposed to second-hand smoke, and the employee shall acknowledge that he or she understands the risks of exposure to second-hand smoke.

Source: Laws 2015, LB118, § 6.

53-138 Pedal-pub vehicle license; activities authorized; licensee; duties.

(1) The commission may issue a license to a person to operate a pedal-pub vehicle in this state. Each pedal-pub vehicle license shall expire on April 30 of each year. Each license shall be good throughout this state as a state license. Only one license shall be required for all pedal-pub vehicles operated in this state by the same owner. Each owner shall keep a duplicate of such license posted in each pedal-pub vehicle where alcoholic liquor is sold or consumed. No further license shall be required or tax levied by any county, city, or village for the privilege of operating a pedal-pub vehicle for the purpose of selling and allowing the consumption of alcoholic liquor while on or in a pedal-pub vehicle.

(2) The holder of a pedal-pub vehicle license may sell alcoholic liquor in individual drinks to customers who are twenty-one years of age or older to consume while they are on or in the pedal-pub vehicle and may allow such customers to consume alcoholic liquor not purchased from the licensee while the customers are on or in the pedal-pub vehicle. The licensee shall serve alcoholic liquor in opaque plastic containers that prominently display the licensee's trade name or logo or some other mark that is unique to the licensee under the licensee's pedal-pub vehicle license and shall require the use of such containers for the consumption of alcoholic liquor not purchased from the licensee.

(3) No customer shall take any open container of alcoholic liquor from the pedal-pub vehicle or consume the alcoholic liquor after leaving the pedal-pub vehicle. A customer may take unopened containers of alcoholic liquor not purchased from the licensee from the pedal-pub vehicle.

(4) The licensee shall not allow open containers of alcoholic liquor to leave the pedal-pub vehicle. The licensee shall be responsible for picking up and disposing of any litter or other waste or any personal property that originates from the pedal-pub vehicle and lands on public or private property.

Source: Laws 2015, LB330, § 15.

53-138.01 Licenses; disposition of fees.

The State Treasurer shall credit three hundred ninety-five dollars of each four-hundred-dollar application fee and forty dollars of each forty-five-dollar application fee and each renewal fee to the General Fund and the remaining five dollars to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund to be used for providing licensees with materials pursuant to section 53-117.05. All retail and bottle club license fees received by the city or village treasurer, as the case may be, shall inure to the school fund of the district lying wholly or partially within the corporate limits of such city or village. Except as otherwise provided in section 53-123.15, the State Treasurer shall distribute license fees received by the commission for licenses issued pertaining to alcoholic liquor, including beer, in accordance with Article VII, section 5, of the Constitution of Nebraska. All retail and bottle club license fees received by

the county treasurer, as provided in section 53-124, shall be credited to the school fund of the county.

Source: Laws 1935, c. 116, § 92, p. 424; C.S.Supp.,1941, § 53-392; R.S.1943, § 53-138; Laws 1949, c. 169, § 2(2), p. 448; Laws 1953, c. 180, § 2, p. 570; Laws 1959, c. 249, § 12, p. 872; Laws 1988, LB 1089, § 17; Laws 1991, LB 202, § 5; Laws 1997, LB 345, § 1; Laws 2000, LB 973, § 7; Laws 2010, LB861, § 70; Laws 2010, LB867, § 3; Laws 2018, LB1120, § 23.
Effective date July 19, 2018.

53-148.01 Retail or bottle club licensee; warning sign; commission; duties.

Any retail or bottle club licensee shall post in a conspicuous place a sign which clearly reads as follows: Warning: Drinking alcoholic beverages during pregnancy can cause birth defects. The commission shall prescribe the form of such warning sign and shall make such warning signs available to all retail and bottle club licensees.

Source: Laws 1989, LB 70, § 2; R.S.Supp.,1990, § 53-101.04; Laws 1991, LB 344, § 43; Laws 2018, LB1120, § 24.
Effective date July 19, 2018.

(f) TAX

53-160 Tax on manufacturer and wholesaler; amount; exemption; duties of commission.

(1) For the purpose of raising revenue, a tax is imposed upon the privilege of engaging in business as a manufacturer or a wholesaler at a rate of thirty-one cents per gallon on all beer; ninety-five cents per gallon for wine, except for wines produced and released from bond in farm wineries; six cents per gallon for wine produced and released from bond in farm wineries; and three dollars and seventy-five cents per gallon on alcohol and spirits manufactured and sold by such manufacturer or shipped for sale in this state by such wholesaler in the course of such business. The gallonage tax imposed by this subsection shall be imposed only on alcoholic liquor upon which a federal excise tax is imposed.

(2) Manufacturers or wholesalers of alcoholic liquor shall be exempt from the payment of the gallonage tax on such alcoholic liquor upon satisfactory proof, including bills of lading furnished to the commission by affidavit or otherwise as the commission may require, that such alcoholic liquor was manufactured in this state but shipped out of the state for sale and consumption outside this state.

(3) Dry wines or fortified wines manufactured or shipped into this state solely and exclusively for sacramental purposes and uses shall not be subject to the gallonage tax.

(4) The gallonage tax shall not be imposed upon any alcoholic liquor, whether manufactured in or shipped into this state, when sold to a licensed nonbeverage user for use in the manufacture of any of the following when such products are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic, and toilet preparations; flavoring extracts, syrups, food products, and confections or candy; scientific, industrial, and chemical products, except denatured alcohol; or products for scientific, chemical, experimental, or mechanical purposes.

(5) The gallonage tax shall not be imposed upon the privilege of engaging in any business in interstate commerce or otherwise, which business may not, under the Constitution and statutes of the United States, be made the subject of taxation by this state.

(6) The gallonage tax shall be in addition to all other occupation or privilege taxes imposed by this state or by any municipal corporation or political subdivision thereof.

(7) The commission shall collect the gallonage tax and shall account for and remit to the State Treasurer at least once each week all money collected pursuant to this section. If any alcoholic liquor manufactured in or shipped into this state is sold to a licensed manufacturer or wholesaler of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon such manufacturer or wholesaler shall be reduced by the amount of the taxes which have been paid as to such alcoholic liquor so used under the Nebraska Liquor Control Act. The net proceeds of all revenue arising under this section shall be credited to the General Fund.

Source: Laws 1935, c. 116, § 50, p. 405; Laws 1939, c. 66, § 1, p. 273; Laws 1941, c. 106, § 1, p. 426; C.S.Supp.,1941, § 53-350; R.S. 1943, § 53-160; Laws 1947, c. 189, § 1, p. 624; Laws 1951, c. 172, § 1, p. 660; Laws 1963, c. 312, § 1, p. 940; Laws 1965, c. 320, § 1, p. 911; Laws 1965, c. 319, § 3, p. 909; Laws 1965, c. 318, § 9, p. 898; Laws 1972, LB 66, § 3; Laws 1977, LB 254, § 1; Laws 1977, LB 220, § 1; Laws 1979, LB 260, § 1; Laws 1981, LB 129, § 1; Laws 1985, LB 279, § 9; Laws 1985, LB 280, § 1; Laws 1988, LB 901, § 3; Laws 1988, LB 1089, § 22; Laws 1991, LB 344, § 44; Laws 2003, LB 283, § 1; Laws 2003, LB 759, § 1; Laws 2012, LB824, § 6.

53-160.03 Beer-related crop; tax credit; calculation; application; contents; approval; notice.

(1) The Legislature finds that encouraging manufacturers of beer to use beer-related crops grown in this state in their manufacturing operations stimulates the creation of jobs and investments in small communities in this state, encourages the use of lands upon which beer-related crops may be grown, and provides tax revenue to the state which would not otherwise be realized. It is the intent of the Legislature to encourage the use of such beer-related crops by providing a nonrefundable tax credit as provided in this section.

(2) For purposes of this section, beer-related crop means barley or hops.

(3) A nonrefundable credit against the tax imposed in section 53-160 shall be allowed to any manufacturer of beer if at least ten percent of the beer-related crops used by such manufacturer in the previous calendar year were grown in this state. The credit shall be an amount equal to the percentage specified in subsection (4) of this section multiplied by the total amount of tax paid under section 53-160 in the previous calendar year on the first twenty thousand barrels of beer sold by such manufacturer.

(4) The percentage used to determine the credit shall be as follows:

(a) If at least ten percent but less than forty percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be fifteen percent;

(b) If at least forty percent but less than seventy percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be twenty-five percent; and

(c) If at least seventy percent of the beer-related crops used by the manufacturer in the previous calendar year were grown in this state, the percentage used to determine the credit shall be thirty-five percent.

(5) A manufacturer of beer shall apply for the credit to the commission on a form prescribed by the commission. The application shall be submitted on or before January 25 of each year and shall contain the following information:

(a) The name of the manufacturer;

(b) The total number of barrels of beer sold and the total amount of tax paid under section 53-160 during the previous calendar year;

(c) The percentage of beer-related crops used by the manufacturer in the previous calendar year that were grown in this state; and

(d) Such other information as required by the commission to verify that the manufacturer is qualified to receive the credit allowed under this section and to calculate the amount of the credit.

(6) If the manufacturer of beer qualifies for the credit, the commission shall approve the application and notify the manufacturer of the amount of the credit approved. The manufacturer may then claim the credit on the reports due each month under section 53-164.01 as an offset against the taxes due pursuant to such reports until the credit is fully utilized or until the following December 31, whichever occurs first.

Source: Laws 2015, LB330, § 22.

53-162 Alcoholic liquor shipped from another state; tax imposed.

For the purpose of raising revenue, a tax is imposed upon persons holding a shipping license issued pursuant to subsection (4) or (5) of section 53-123.15 who ship alcoholic liquor to individuals pursuant to section 53-192 and for which the required taxes in the state of purchase or this state have not been paid. The tax, if due, shall be paid by the holder of the shipping license issued pursuant to subsection (4) or (5) of section 53-123.15. The amount of the tax shall be imposed as provided in section 53-160. The tax shall be collected by the commission, except that the tax shall not be due until December 31 of the year in which the purchase was made. The tax shall be delinquent if unpaid within twenty-five days after December 31. The revenue from the tax shall be credited to the General Fund. The commission shall adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2000, LB 973, § 2; Laws 2001, LB 671, § 3; Laws 2013, LB230, § 4.

53-164.01 Alcoholic liquor; tax; payment; report; penalty; bond; sale to instrumentality of armed forces; credit for tax paid.

Payment of the tax provided for in section 53-160 on alcoholic liquor shall be paid by the manufacturer or wholesaler as follows:

(1)(a) All manufacturers or wholesalers, except farm winery producers, whether inside or outside this state shall, on or before the twenty-fifth day of

each calendar month following the month in which shipments were made, submit a report to the commission upon forms furnished by the commission showing the total amount of alcoholic liquor in gallons or fractional parts thereof shipped by such manufacturer or wholesaler, whether inside or outside this state, during the preceding calendar month;

(b) All beer wholesalers shall, on or before the twenty-fifth day of each calendar month following the month in which shipments were made, submit a report to the commission upon forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof shipped by all manufacturers, whether inside or outside this state, during the preceding calendar month to such wholesaler;

(c)(i) Except as provided in subdivision (ii) of this subdivision, farm winery producers which paid less than one thousand dollars of excise taxes pursuant to section 53-160 for the previous calendar year and which will pay less than one thousand dollars of excise taxes pursuant to section 53-160 for the current calendar year shall, on or before the twenty-fifth day of the calendar month following the end of the year in which wine was packaged and released from bond, submit a report to the commission upon forms furnished by the commission showing the total amount of wine in gallons or fractional parts thereof packaged and released from bond by such producer during the preceding calendar year; and

(ii) Farm winery producers which paid one thousand dollars or more of excise taxes pursuant to section 53-160 for the previous calendar year or which become liable for one thousand dollars or more of excise taxes pursuant to section 53-160 during the current calendar year shall, on or before the twenty-fifth day of each calendar month following the month in which wine was packaged and released from bond, submit a report to the commission upon forms furnished by the commission showing the total amount of wine in gallons or fractional parts thereof packaged and released from bond by such producer during the preceding calendar month. A farm winery producer which becomes liable for one thousand dollars or more of excise taxes pursuant to section 53-160 during the current calendar year shall also pay such excise taxes immediately;

(d) A craft brewery shall, on or before the twenty-fifth day of each calendar month following the month in which the beer was released from bond for sale, submit a report to the commission on forms furnished by the commission showing the total amount of beer in gallons or fractional parts thereof produced for sale by the craft brewery during the preceding calendar month;

(e) A microdistillery shall, on or before the twenty-fifth day of each calendar month following the month in which the distilled liquor was released from bond for sale, submit a report to the commission on forms furnished by the commission showing the total amount of distilled liquor in gallons or fractional parts thereof produced for sale by the microdistillery during the preceding calendar month; and

(f) Reports submitted pursuant to subdivision (a), (b), or (c) of this subdivision shall also contain a statement of the total amount of alcoholic liquor, except beer, in gallons or fractional parts thereof shipped to licensed retailers inside this state and such other information as the commission may require;

(2) The wholesaler or farm winery producer shall at the time of the filing of the report pay to the commission the tax due on alcoholic liquor, except beer,

shipped to licensed retailers inside this state at the rate fixed in accordance with section 53-160. The tax due on beer shall be paid by the wholesaler on beer shipped from all manufacturers;

(3) The tax imposed pursuant to section 53-160 shall be due on the date the report is due less a discount of one percent of the tax on alcoholic liquor for submitting the report and paying the tax in a timely manner. The discount shall be deducted from the payment of the tax before remittance to the commission and shall be shown in the report to the commission as required in this section. If the tax is not paid within the time provided in this section, the discount shall not be allowed and shall not be deducted from the tax;

(4) If the report is not submitted by the twenty-fifth day of the calendar month or if the tax is not paid to the commission by the twenty-fifth day of the calendar month, the following penalties shall be assessed on the amount of the tax: One to five days late, three percent; six to ten days late, six percent; and over ten days late, ten percent. In addition, interest on the tax shall be collected at the rate of one percent per month, or fraction of a month, from the date the tax became due until paid;

(5) No tax shall be levied or collected on alcoholic liquor manufactured inside this state and shipped or transported outside this state for sale and consumption outside this state;

(6) In order to insure the payment of all state taxes on alcoholic liquor, together with interest and penalties, persons required to submit reports and payment of the tax shall, at the time of application for a license under sections 53-124 and 53-124.01, enter into a surety bond with corporate surety, both the bond form and surety to be approved by the commission. Subject to the limitations specified in this subdivision, the amount of the bond required of any taxpayer shall be fixed by the commission and may be increased or decreased by the commission at any time. In fixing the amount of the bond, the commission shall require a bond equal to the amount of the taxpayer's estimated maximum monthly excise tax ascertained in a manner as determined by the commission. Nothing in this section shall prevent or prohibit the commission from accepting and approving bonds which run for a term longer than the license period. The amount of a bond required of any one taxpayer shall not be less than one thousand dollars. The bonds required by this section shall be filed with the commission; and

(7) When a manufacturer or wholesaler sells and delivers alcoholic liquor upon which the tax has been paid to any instrumentality of the armed forces of the United States engaged in resale activities as provided in section 53-160.01, the manufacturer or wholesaler shall be entitled to a credit in the amount of the tax paid in the event no tax is due on such alcoholic liquor as provided in such section. The amount of the credit, if any, shall be deducted from the tax due on the following monthly report and subsequent reports until liquidated.

Source: Laws 1955, c. 201, § 3, p. 571; Laws 1959, c. 247, § 6, p. 853; Laws 1959, c. 251, § 1, p. 880; Laws 1967, c. 334, § 1, p. 892; Laws 1972, LB 66, § 4; Laws 1973, LB 111, § 8; Laws 1979, LB 224, § 5; Laws 1981, LB 124, § 3; Laws 1983, LB 213, § 18; Laws 1985, LB 279, § 10; Laws 1985, LB 359, § 3; Laws 1988, LB 1089, § 23; Laws 1989, LB 777, § 1; Laws 1989, LB 780, § 12; Laws 1991, LB 344, § 47; Laws 1991, LB 582, § 3; Laws

1994, LB 1292, § 8; Laws 1996, LB 750, § 10; Laws 2006, LB 1003, § 3; Laws 2007, LB549, § 16; Laws 2010, LB861, § 73; Laws 2012, LB824, § 7.

(h) KEG SALES

53-167.02 Keg sales; requirements; keg identification number; violation; penalty.

(1) When any person licensed to sell alcoholic liquor at retail sells alcohol for consumption off the premises in a container with a liquid capacity of five or more gallons or eighteen and ninety-two hundredths or more liters, the seller shall record the date of the sale, the keg identification number, the purchaser's name and address, and the number of the purchaser's motor vehicle operator's license, state identification card, or military identification, if such military identification contains a picture of the purchaser, together with the purchaser's signature. Such record shall be on a form prescribed by the commission and shall be kept by the licensee at the retail establishment where the purchase was made for not less than six months.

(2) The commission shall adopt and promulgate rules and regulations which require the licensee to place a label on the alcohol container, which label shall at least contain a keg identification number and shall be on a form prescribed by the commission. Such label shall be placed on the keg at the time of retail sale. The licensee shall purchase the forms referred to in this section from the commission. The cost incurred to produce and distribute such forms shall be reasonable and shall not exceed the reasonable and necessary costs of producing and distributing the forms. Any money collected by the commission relating to the sale of such forms shall be credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

(3) The keg identification number for each container shall be registered with the commission. The records kept pursuant to this section shall be available for inspection by any law enforcement officer during normal business hours or at any other reasonable time. Any person violating this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1993, LB 332, § 3; Laws 2015, LB330, § 23.

53-167.03 Keg identification number; prohibited acts; violation; penalty; deposit.

(1) Any person who unlawfully tampers with, alters, or removes the keg identification number from a container described in section 53-167.02 or is in possession of a container described in section 53-167.02 with an altered or removed keg identification number after such container has been taken from the licensed premises pursuant to a retail sale and before its return to such licensed premises or other place where returned kegs are accepted shall be guilty of a Class III misdemeanor.

(2) A licensee may require a deposit of not more than the replacement cost of the container described in section 53-167.02 from a person purchasing alcohol for consumption off the premises. Such deposit may be retained by the licensee, in the amount of actual damages, if upon return the container or any associated equipment is damaged or if the keg identification number has been unlawfully

tampered with, altered, or removed and such tampering, alteration, or removal has been reported to a law enforcement officer.

Source: Laws 1993, LB 332, § 4; Laws 2002, LB 1126, § 5; Laws 2007, LB573, § 10; Laws 2015, LB330, § 24.

(i) PROHIBITED ACTS

53-168.06 General prohibition; exceptions.

No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish, or possess any alcoholic liquor for beverage purposes except as specifically provided in the Nebraska Liquor Control Act. Nothing in the act shall prevent (1) the possession of alcoholic liquor legally obtained as provided in the act for the personal use of the possessor and his or her family and guests; (2) the making of wine, cider, or other alcoholic liquor by a person from fruits, vegetables, or grains, or the product thereof, by simple fermentation and without distillation, if made solely for the use of the maker and his or her family and guests; (3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, any hospital or other institution caring for the sick and diseased persons from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution, or any drug store employing a licensed pharmacist from possessing or using alcoholic liquor in the compounding of prescriptions of licensed physicians; (4) the possession and dispensation of alcoholic liquor by an authorized representative of any religion on the premises of a place of worship, for the purpose of conducting any bona fide religious rite, ritual, or ceremony; (5) persons who are sixteen years old or older from carrying alcoholic liquor from licensed establishments when they are accompanied by a person not a minor; (6) persons who are sixteen years old or older from handling alcoholic liquor containers and alcoholic liquor in the course of their employment; (7) persons who are sixteen years old or older from removing and disposing of alcoholic liquor containers for the convenience of the employer and customers in the course of their employment; (8) persons who are sixteen years old or older from completing a transaction for the sale of alcoholic liquor in the course of their employment if they are not handling or serving alcoholic liquor; or (9) persons who are nineteen years old or older from serving or selling alcoholic liquor in the course of their employment.

Source: Laws 1935, c. 116, § 1, p. 374; C.S.Supp.,1941, § 53-301; R.S. 1943, § 53-102; Laws 1971, LB 666, § 1; Laws 1978, LB 386, § 2; Laws 1980, LB 221, § 1; Laws 1985, LB 359, § 1; R.S.1943, (1988), § 53-102; Laws 1991, LB 344, § 52; Laws 1995, LB 874, § 2; Laws 2001, LB 114, § 3; Laws 2016, LB1105, § 24.

53-169 Manufacturer or wholesaler; craft brewery, manufacturer, or micro-distillery licensee; limitations.

(1) Except as provided in subsection (2) of this section, no manufacturer or wholesaler shall directly or indirectly: (a) Pay for any license to sell alcoholic liquor at retail or advance, furnish, lend, or give money for payment of such license; (b) purchase or become the owner of any note, mortgage, or other evidence of indebtedness of such licensee or any form of security therefor; (c) be interested in the ownership, conduct, or operation of the business of any

licensee authorized to sell alcoholic liquor at retail; or (d) be interested directly or indirectly or as owner, part owner, lessee, or lessor thereof in any premises upon which alcoholic liquor is sold at retail.

(2) This section does not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 and the holder of a manufacturer's license shall have the privileges and duties listed in section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license or of a manufacturer's license issued pursuant to section 53-123.01 to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source: Laws 1935, c. 116, § 30, p. 396; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-169; Laws 1947, c. 187, § 2, p. 619; Laws 1953, c. 182, § 3, p. 574; Laws 1961, c. 258, § 5, p. 765; Laws 1971, LB 751, § 5; Laws 1981, LB 483, § 3; Laws 1985, LB 183, § 5; Laws 1985, LB 279, § 11; Laws 1988, LB 1089, § 24; Laws 1991, LB 344, § 54; Laws 1996, LB 750, § 11; Laws 2007, LB549, § 17; Laws 2016, LB1105, § 25.

53-169.01 Manufacturer; interest in licensed wholesaler; prohibitions; exception.

(1)(a) Except as otherwise provided in subsection (2) of this section, no manufacturer of alcoholic liquor holding a manufacturer's license under section 53-123.01 and no manufacturer of alcoholic liquor outside this state manufacturing alcoholic liquor for distribution and sale within this state shall, directly or indirectly, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director, or employee thereof, or by stock ownership, interlocking directors, trusteeship, loan, mortgage, or lien on any personal or real property, or as guarantor, endorser, or surety, be interested in the ownership, conduct, operation, or management of any wholesaler holding an alcoholic liquor wholesale license under section 53-123.02 or a beer wholesale license under section 53-123.03.

(b) Except as otherwise provided in subsection (2) of this section, no manufacturer of alcoholic liquor holding a manufacturer's license under section 53-123.01 and no manufacturer of alcoholic liquor outside this state manufacturing alcoholic liquor for distribution and sale within this state shall be interested directly or indirectly, as lessor or lessee, as owner or part owner, or through a subsidiary or affiliate, or by any officer, director, or employee thereof, or by stock ownership, interlocking directors, or trusteeship in the premises upon which the place of business of a wholesaler holding an alcoholic liquor wholesale license under section 53-123.02 or a beer wholesale license under section 53-123.03 is located, established, conducted, or operated in whole or in part unless such interest was acquired or became effective prior to April 17, 1947.

(2) A manufacturer of beer may acquire an ownership interest in a beer wholesaler, for a period not to exceed two years, upon the death or bankruptcy

of the beer wholesaler with which the manufacturer is doing business or upon the beer wholesaler with which the manufacturer is doing business becoming ineligible to hold a license under section 53-125.

Source: Laws 1935, c. 116, § 30, p. 396; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-169; Laws 1947, c. 187, § 2, p. 619; Laws 1953, c. 182, § 4, p. 575; Laws 1959, c. 250, § 2, p. 876; Laws 1969, c. 441, § 3, p. 1477; Laws 1991, LB 344, § 55; Laws 2007, LB578, § 3; Laws 2010, LB861, § 74; Laws 2011, LB279, § 1.

53-171 Licenses; issuance of more than one kind to same person; when unlawful; craft brewery, manufacturer, or microdistillery licensee; limitations.

No person licensed as a wholesaler of alcoholic liquor shall be permitted to receive any retail license at the same time. No person licensed as a manufacturer shall be permitted to receive any retail license at the same time except as set forth in subsection (2) of section 53-123.01 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a manufacturer's license issued pursuant to such subsection to engage in the wholesale distribution of alcoholic liquor. No person licensed as a retailer of alcoholic liquor shall be permitted to receive any manufacturer's or wholesale license at the same time. This section shall not apply to the holder of a farm winery license. The holder of a craft brewery license shall have the privileges and duties listed in section 53-123.14 with respect to the manufacture, distribution, and retail sale of beer, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a craft brewery license to engage in the wholesale distribution of beer. The holder of a microdistillery license shall have the privileges and duties listed in section 53-123.16 with respect to the manufacture of alcoholic liquor, and the Nebraska Liquor Control Act shall not be construed to permit the holder of a microdistillery license to engage in the wholesale distribution of alcoholic liquor.

Source: Laws 1935, c. 116, § 30, p. 397; C.S.Supp.,1941, § 53-330; R.S.1943, § 53-171; Laws 1953, c. 182, § 1, p. 573; Laws 1969, c. 441, § 4, p. 1478; Laws 1985, LB 279, § 12; Laws 1988, LB 1089, § 25; Laws 1991, LB 344, § 56; Laws 1996, LB 750, § 12; Laws 2007, LB549, § 18; Laws 2016, LB1105, § 26.

53-173 Powdered alcohol; prohibited acts; penalties; effect on license.

(1) Except as otherwise provided in subsection (5) of this section, a person shall not purchase, sell, offer to sell, use, or possess with intent to sell powdered alcohol.

(2) A person holding a license under the Nebraska Liquor Control Act shall be subject to having the license suspended, canceled, or revoked pursuant to the act for a violation of this section.

(3) Any person, other than a person licensed under the act, who sells a powdered alcohol product shall be guilty of a Class I misdemeanor.

(4) Any person knowingly or intentionally possessing powdered alcohol shall:

(a) For the first offense, be guilty of an infraction, receive a citation, and be fined three hundred dollars;

(b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and

(c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

(5) This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

Source: Laws 2015, LB330, § 8.

53-175 Liquor; acquisition from other than licensed dealer; when unlawful.

It shall be unlawful for any person to purchase, receive, acquire, accept, or possess any alcoholic liquor acquired from any person other than one duly licensed to handle alcoholic liquor under the Nebraska Liquor Control Act unless within the specific exemptions or exceptions provided in the act. No licensed retailer of alcoholic liquor shall purchase such liquor other than from a licensed wholesaler who has his or her place of business within this state. Nothing in this section shall prohibit the sale or exchange among collectors of commemorative bottles or uniquely designed decanters which contain alcoholic liquor.

Source: Laws 1935, c. 116, § 32, p. 398; C.S.Supp.,1941, § 53-332; R.S.1943, § 53-175; Laws 1988, LB 1089, § 27; Laws 1989, LB 154, § 4; Laws 1991, LB 344, § 58; Laws 2016, LB1105, § 27.

53-177 Sale at retail; bottle club license; restrictions as to locality.

(1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor or for a bottle club within one hundred fifty feet of any church, school, hospital, or home for indigent persons or for veterans and their wives or children. This prohibition does not apply (a) to any location within such distance of one hundred fifty feet for which a license to sell alcoholic liquor at retail or for a bottle club has been granted by the commission for two years continuously prior to making of application for license, (b) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935, or (c) to a college or university in the state which is subject to section 53-177.01.

(2) If a proposed location for the sale at retail of any alcoholic liquor or for a bottle club is within one hundred fifty feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in section 53-133 if the affected church submits a written request for a hearing.

Source: Laws 1935, c. 116, § 35, p. 399; C.S.Supp.,1941, § 53-335; R.S.1943, § 53-177; Laws 1947, c. 189, § 2, p. 626; Laws 1965, c. 322, § 1, p. 914; Laws 1999, LB 267, § 13; Laws 2009, LB232,

§ 3; Laws 2010, LB861, § 76; Laws 2011, LB407, § 7; Laws 2015, LB330, § 25; Laws 2018, LB1120, § 25.
Effective date July 19, 2018.

53-177.01 Sale for consumption on premises or bottle club operation near campus of college or university; restrictions; commission; waiver; application; contents; written approval of governing body of college or university.

(1) No alcoholic liquor shall be sold for consumption on the premises within three hundred feet from the campus of any college or university in the state, except that this section:

(a) Does not prohibit a nonpublic college or university from contracting with an individual or corporation holding a license to sell alcoholic liquor at retail for the purpose of selling alcoholic liquor at retail on the campus of such college or university at events sanctioned by such college or university but does prohibit the sale of alcoholic liquor at retail by such licensee on the campus of such nonpublic college or university at student activities or events; and

(b) Does not prohibit sales of alcoholic liquor by a community college culinary education program pursuant to section 53-124.15.

(2) Except as otherwise provided in subsection (4) of this section, the commission may waive the three-hundred-foot restriction in subsection (1) of this section taking into consideration one or more of the following:

(a) The impact of retail sales of alcoholic liquor for consumption on the premises on the academic mission of the college or university;

(b) The impact on students and prospective students if such sales were permitted on or near campus;

(c) The impact on economic development opportunities located within or in proximity to the campus; and

(d) The waiver would likely reduce the number of applications for special designated licenses requested by the college or university or its designee.

(3) To apply for a waiver under this section, the applicant shall submit a written application to the commission. The commission shall notify the governing body of the affected college or university when the commission receives an application for a waiver. The application shall include:

(a) The address of the location for which the waiver is requested;

(b) The name and type of business for which the waiver is requested; and

(c) A description of the justification for the waiver explaining how the proposed location complies with the findings prescribed in subsection (2) of this section.

(4) The commission shall not waive the three-hundred-foot restriction in subsection (1) of this section without written approval from the governing body of the college or university or its designee if the physical location of the property which is the subject of the requested waiver is (a) surrounded by property owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university or (b) adjacent to property on two or more sides owned by the college or university including any public or private easement, street, or right-of-way adjacent to the property owned by the college or university.

(5) No bottle club shall be operated within three hundred feet from the campus of any college or university in the state.

Source: Laws 2011, LB407, § 8; Laws 2018, LB1120, § 26.
Effective date July 19, 2018.

53-178 Sale at retail; forbidden in dwelling or lodging house; exceptions.

Except in the case of hotels and clubs, no alcoholic liquor shall be manufactured or sold at retail or wholesale upon any premises which have any access which leads from such premises to any other portion of the same building or structure used for dwelling or lodging purposes and permitted to be used or kept accessible for use by the public. This section does not prevent any connection between such premises and such other portion of the building or structure which is used only by the licensee or his or her family and personal guests.

Source: Laws 1935, c. 116, § 36, p. 399; C.S.Supp.,1941, § 53-336; R.S.1943, § 53-178; Laws 2016, LB1105, § 28.

53-179 Sale or dispensing of alcoholic liquor; forbidden during certain hours; exceptions; alcoholic liquor in open containers; unlawful after hours.

(1) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m., except that the local governing body of any city or village with respect to area inside the corporate limits of such city or village, or the county board with respect to area outside the corporate limits of any city or village, may by ordinance or resolution (a) require closing prior to 1 a.m. on any day, (b) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, later than 1 a.m. and prior to 2 a.m. on any day, (c) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day, or (d) if adopted by a vote of at least two-thirds of the members of such local governing body or county board, permit retail sale or dispensing of alcoholic liquor for consumption on the premises, excluding sales for consumption off the premises, and permit retail sale of alcoholic liquor for consumption off the premises later than 1 a.m. and prior to 2 a.m. on any day.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area inside the corporate limits of a city or village or by resolution of a county board applicable to area inside such county and outside the corporate limits of any city or village, no alcoholic liquor, including beer, shall be sold at retail or dispensed between the hours of 6 a.m. Sunday and 1 a.m. Monday. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class I license.

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of fifteen minutes after the closing hour applicable to the licensed premises and 6 a.m. on any day.

(4) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Source: Laws 1935, c. 116, § 37, p. 399; Laws 1941, c. 107, § 1, p. 429; C.S.Supp.,1941, § 53-337; R.S.1943, § 53-179; Laws 1955, c. 202, § 2, p. 579; Laws 1957, c. 232, § 1, p. 791; Laws 1963, c. 310, § 12, p. 934; Laws 1963, Spec. Sess., c. 5, § 4, p. 82; Laws 1965, c. 318, § 10, p. 900; Laws 1967, c. 336, § 2, p. 902; Laws 1974, LB 681, § 7; Laws 1976, LB 204, § 6; Laws 1978, LB 386, § 8; Laws 1979, LB 514, § 1; Laws 1981, LB 217, § 1; Laws 1983, LB 213, § 19; Laws 1991, LB 344, § 61; Laws 1991, LB 354, § 1; Laws 2004, LB 485, § 29; Laws 2010, LB861, § 77; Laws 2012, LB861, § 1; Laws 2014, LB863, § 24.

53-180 Prohibited acts relating to minors and incompetents.

No person shall sell, furnish, give away, exchange, or deliver, or permit the sale, gift, or procuring of, any alcoholic liquors to or for any minor or to any person who is mentally incompetent.

Source: Laws 1935, c. 116, § 38, p. 400; Laws 1937, c. 125, § 1, p. 437; C.S.Supp.,1941, § 53-338; Laws 1943, c. 121, § 1, p. 419; R.S. 1943, § 53-180; Laws 1951, c. 174, § 1(1), p. 664; Laws 1980, LB 848, § 17; Laws 2011, LB667, § 21.

Cross References

City of the second class may prohibit sale to minors, see section 17-135.
 Minor Alcoholic Liquor Liability Act, see section 53-401.

53-180.05 Prohibited acts relating to minors and incompetents; violations; penalties; possible alcohol overdose; actions authorized; false identification; penalty; law enforcement agency; duties.

(1) Except as provided in subsection (2) of this section, any person who violates section 53-180 shall be guilty of a Class I misdemeanor.

(2) Any person who knowingly and intentionally violates section 53-180 shall be guilty of a Class IIIA felony and serve a mandatory minimum of at least thirty days' imprisonment as part of any sentence he or she receives if serious bodily injury or death to any person resulted and was proximately caused by a minor's (a) consumption of the alcoholic liquor provided or (b) impaired condition which, in whole or in part, can be attributed to the alcoholic liquor provided.

(3) Any person who violates any of the provisions of section 53-180.01 or 53-180.03 shall be guilty of a Class III misdemeanor.

(4)(a) Except as otherwise provided in subdivisions (b), (c), and (d) of this subsection, any person older than eighteen years of age and under the age of twenty-one years violating section 53-180.02 is guilty of a Class III misdemeanor.

(b) Subdivision (a) of this subsection shall not apply if the person:

(i) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(ii) Made the request for medical assistance under subdivision (b)(i) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(iii) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(A) Remained on the scene until the medical assistance arrived; and

(B) Cooperated with medical assistance and law enforcement personnel.

(c) The exception from criminal liability provided in subdivision (b) of this subsection applies to any person who makes a request for emergency medical assistance and complies with the requirements of subdivision (b) of this subsection.

(d) Subdivision (a) of this subsection shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subdivision (b) of this subsection.

(e) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subdivision (b), (c), or (d) of this subsection.

(5) Any person eighteen years of age or younger violating section 53-180.02 is guilty of a misdemeanor as provided in section 53-181 and shall be punished as provided in such section.

(6) Any person who knowingly manufactures, creates, or alters any form of identification for the purpose of sale or delivery of such form of identification to a person under the age of twenty-one years shall be guilty of a Class I misdemeanor. For purposes of this subsection, form of identification means any card, paper, or legal document that may be used to establish the age of the person named thereon for the purpose of purchasing alcoholic liquor.

(7) When a minor is arrested for a violation of sections 53-180 to 53-180.02 or subsection (6) of this section, the law enforcement agency employing the arresting peace officer shall make a reasonable attempt to notify such minor's parent or guardian of the arrest.

Source: Laws 1935, c. 116, § 38, p. 400; Laws 1937, c. 125, § 1, p. 437; C.S.Supp.,1941, § 53-338; Laws 1943, c. 121, § 1, p. 419; R.S. 1943, § 53-180; Laws 1951, c. 174, § 1(6), p. 664; Laws 1963, c. 313, § 2, p. 943; Laws 1969, c. 444, § 1, p. 1482; Laws 1973, LB 25, § 3; Laws 1977, LB 40, § 315; Laws 1982, LB 869, § 1; Laws 1984, LB 56, § 4; Laws 1985, LB 493, § 2; Laws 1989, LB 440, § 1; Laws 1991, LB 454, § 1; Laws 2001, LB 114, § 6; Laws 2010, LB258, § 2; Laws 2011, LB667, § 22; Laws 2015, LB439, § 1; Laws 2018, LB923, § 2.
Effective date July 19, 2018.

53-180.06 Documentary proof of age; separate book; record; contents.

(1) To establish proof of age for the purpose of purchasing or consuming alcoholic liquor, a person shall present or display only a valid driver's or operator's license, state identification card, military identification card, alien registration card, or passport.

(2) Every holder of a retail license may maintain, in a separate book, a record of each person who has furnished documentary proof of age for the purpose of making any purchase of alcoholic liquor. The record shall show the name and address of the purchaser, the date of the purchase, and a description of the identification used and shall be signed by the purchaser.

Source: Laws 1969, c. 437, § 1, p. 1467; Laws 1991, LB 454, § 2; Laws 1999, LB 267, § 14; Laws 2013, LB173, § 1.

53-181 Person eighteen years of age or younger; penalty; copy of abstract to Director of Motor Vehicles; possible alcohol overdose; actions authorized.

(1) Except as otherwise provided in subsections (3), (4), and (5) of this section, the penalty for violation of section 53-180.02 by a person eighteen years of age or younger shall be as follows:

(a) If the person convicted or adjudicated of violating such section has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court may, as a part of the judgment of conviction or adjudication, impound any such licenses or permits for thirty days and require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as a part of the judgment of conviction or adjudication, may (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating such section does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend an alcohol education class;

(ii) For a second offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend an alcohol education class; and

(iii) For a third or subsequent offense, such person is guilty of a Class III misdemeanor and the court, as part of the judgment of conviction or adjudication, may (A) prohibit such person from obtaining any permit or any license

pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend an alcohol education class, and to submit to an alcohol assessment by a licensed alcohol and drug counselor.

(2) A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04.

(3) Subsection (1) of this section shall not apply if the person:

(a) Made a good faith request for emergency medical assistance in response to the possible alcohol overdose of himself or herself or another person as soon as the emergency situation is apparent after such violation of section 53-180.02;

(b) Made the request for medical assistance under subdivision (a) of this subsection as soon as the emergency situation is apparent after such violation of section 53-180.02; and

(c) When emergency medical assistance was requested for the possible alcohol overdose of another person:

(i) Remained on the scene until the medical assistance arrived; and

(ii) Cooperated with medical assistance and law enforcement personnel.

(4) The exception from criminal liability provided in subsection (3) of this section applies to any person who makes a request for emergency medical assistance and complies with the requirements of subsection (3) of this section.

(5) Subsection (1) of this section shall not apply to the person experiencing a possible alcohol overdose if a request for emergency medical assistance in response to such possible alcohol overdose was made by another person in compliance with subsection (3) of this section.

(6) A person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance with subsection (3), (4), or (5) of this section.

Source: Laws 2010, LB258, § 3; Laws 2015, LB439, § 2; Laws 2018, LB923, § 3.

Effective date July 19, 2018.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.

53-183 Sale on credit or for goods or services forbidden; exceptions.

(1) No person shall sell or furnish alcoholic liquor at retail to any person on credit, on a passbook, on an order on a store, in exchange for any goods, wares, or merchandise, or in payment for any services rendered, and if any person extends credit for any such purpose, the debt thereby attempted to be created shall not be recoverable at law.

(2) Nothing in this section shall prevent:

(a) Any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the bylaws of such club;

(b) Any hotel or restaurant holding a retail license from permitting checks or statements for liquor to be signed by regular guests residing at such hotel or eating at such restaurant and charged to the accounts of such guests; or

(c) Any licensed retailer engaged in the sale of wine or distilled spirits from issuing tasting cards to customers.

Source: Laws 1935, c. 116, § 40, p. 401; C.S.Supp.,1941, § 53-340; R.S.1943, § 53-183; Laws 1959, c. 252, § 1, p. 883; Laws 1978, LB 386, § 10; Laws 1991, LB 344, § 64; Laws 2011, LB314, § 1; Laws 2014, LB863, § 25.

53-186 Consumption of liquor on public property; forbidden; exceptions; license authorized.

(1) Except as provided in subsection (2) of this section or section 60-6,211.08, it shall be unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.

(2) The commission may issue licenses for the sale of alcoholic liquor at retail (a) on lands owned by public power districts, public power and irrigation districts, the Bureau of Reclamation, or the Corps of Army Engineers or (b) for locations within or on structures on land owned by the state, cities, or villages or on lands controlled by airport authorities. The issuance of a license under this subsection shall be subject to the consent of the local governing body having jurisdiction over the site for which the license is requested as provided in the Nebraska Liquor Control Act.

Source: Laws 1935, c. 116, § 44, p. 402; C.S.Supp.,1941, § 53-344; R.S.1943, § 53-186; Laws 1953, c. 182, § 5, p. 576; Laws 1967, c. 332, § 12, p. 891; Laws 1993, LB 235, § 45; Laws 1999, LB 585, § 1; Laws 2011, LB281, § 1.

53-186.01 Consumption of liquor in public places; license required; exceptions; violations; penalty.

(1) It shall be unlawful for any person owning, operating, managing, or conducting any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public to permit or allow any person to consume alcoholic liquor upon the premises except as permitted by a license issued for such premises pursuant to the Nebraska Liquor Control Act.

(2) It shall be unlawful for any person to consume alcoholic liquor in any bottle club, dance hall, restaurant, cafe, or club or any place open to the general public except as permitted by a license issued for such premises pursuant to the act.

(3) This section shall not apply to a retail licensee while lawfully engaged in the catering of alcoholic beverages or to limousines or buses operated under section 60-6,211.08.

(4) Any person violating subsection (1) of this section shall, upon conviction thereof, be subject to the penalties contained in section 53-1,100.

(5) Any person violating subsection (2) of this section shall be guilty of a Class III misdemeanor.

Source: Laws 1965, c. 318, § 1, p. 885; Laws 1978, LB 386, § 11; Laws 1991, LB 344, § 67; Laws 1991, LB 454, § 3; Laws 2011, LB281, § 2; Laws 2018, LB1120, § 27.
Effective date July 19, 2018.

53-187 Nonbeverage licensee forbidden to give or sell alcoholic liquor; violation; penalty.

No nonbeverage user shall sell, give away, or otherwise dispose of any alcoholic liquor, purchased under his or her license as such nonbeverage user, in any form fit for beverage purposes. Any nonbeverage user who violates this section shall pay to the commission, for the use of the General Fund, the sum of three dollars and seventy-five cents for each gallon of alcoholic liquor so diverted, and in addition thereto shall be subject to the penalties provided in section 53-1,100.

Source: Laws 1935, c. 116, § 57, p. 408; Laws 1939, c. 64, § 2, p. 271; C.S.Supp.,1941, § 53-357; R.S.1943, § 53-187; Laws 1959, c. 250, § 3, p. 877; Laws 1965, c. 319, § 4, p. 910; Laws 2016, LB1105, § 29.

53-188 Repealed. Laws 2014, LB 863, § 31.

53-189 Repealed. Laws 2014, LB 863, § 31.

53-190 Premises violating law declared common nuisances.

All places where alcoholic liquor is sold or consumed in violation of any provision of section 53-186.01 shall be taken and held and are declared to be common nuisances and may be abated as such in the manner provided in the Nebraska Liquor Control Act.

Source: Laws 1935, c. 116, § 61, p. 409; C.S.Supp.,1941, § 53-361; R.S.1943, § 53-190; Laws 1965, c. 318, § 11, p. 901; Laws 2014, LB863, § 26.

53-191 Repealed. Laws 2014, LB 863, § 31.

53-194.03 Transportation of liquor into state; forbidden; when; penalty.

(1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to transport, import, bring, ship, or cause to be transported, imported, brought, or shipped into the State of Nebraska for the personal use of the possessor, his or her family, or guests a quantity of alcoholic liquor in excess of nine liters in any one calendar month.

(2) Subsection (1) of this section does not apply to a person importing alcoholic liquor from a holder of a retail direct sales shipping license or its equivalent, which alcoholic liquor is for personal use or for use by such person's family or guests, if the total amount imported by such person in any one calendar year does not exceed one hundred eight liters.

(3) Alcoholic liquor transported, imported, brought, or shipped into the State of Nebraska in violation of this section shall be seized by the commission and

disposed of in the manner provided for contraband. Any person violating this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1985, LB 359, § 4; Laws 1994, LB 1292, § 9; Laws 2016, LB1105, § 30.

53-197 Violations; peace officer; duties; neglect of duty; penalty.

(1) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against any law of this state relating to the sale of alcoholic liquor shall make complaint against the person so offending within their respective jurisdictions to the proper court, and for every neglect or refusal so to do, every such officer shall be guilty of a Class V misdemeanor.

(2) Every sheriff, deputy sheriff, police officer, marshal, or deputy marshal who knows or who is credibly informed that any offense has been committed against any law of this state relating to the sale of alcoholic liquor shall report such offense in writing to the executive director of the commission (a) within thirty days after such offense is committed, (b) within thirty days after such sheriff, deputy sheriff, police officer, marshal, or deputy marshal is informed of such offense, (c) within thirty days after the conclusion of an ongoing police investigation, or (d) within thirty days after the verdict in a prosecution related to such an ongoing police investigation if the prosecuting attorney determines that reporting such violation prior to the verdict would jeopardize such prosecution, whichever is later.

Source: Laws 1935, c. 116, § 75, p. 412; C.S.Supp.,1941, § 53-375; R.S.1943, § 53-197; Laws 1972, LB 1032, § 257; Laws 1977, LB 40, § 318; Laws 1988, LB 1030, § 44; Laws 2011, LB641, § 2.

(j) PENALTIES

53-1,100 Violations; general penalties.

(1) Any person (a) who imports alcoholic liquor for distribution as a wholesaler or distributes or sells alcoholic liquor at any place within the state without having first obtained a valid license to do so under the Nebraska Liquor Control Act, (b) who manufactures alcoholic liquor other than spirits within the state without having first obtained a valid license to do so under the act, (c) who makes any false statement or otherwise violates any of the provisions of the act in obtaining any license under the act, (d) who, having obtained a license under the act, violates any of the provisions of the act with respect to the manufacture, possession, distribution, or sale of alcoholic liquor or with respect to the maintenance of the licensed premises, or (e) who violates any other provision of the act for which a penalty is not otherwise provided, shall for a first offense be guilty of a Class IV misdemeanor and for a second or subsequent offense shall be guilty of a Class II misdemeanor.

(2) Any person who manufactures spirits at any place within the state without having first obtained a valid license to do so under the act shall be guilty of a Class I misdemeanor for a first offense and a Class IV felony for a second or subsequent offense.

(3) Each day any person engages in business as a manufacturer, wholesaler, retailer, or bottle club in violation of the act shall constitute a separate offense.

(4) In any prosecution in which a person is charged with an offense arising out of the failure to obtain a valid license as provided in subdivision (1)(a) or (b) or subsection (2) of this section, evidence of the failure of the accused to produce such license upon demand shall constitute prima facie proof that a license has not been issued by the commission to such person.

Source: Laws 1935, c. 116, § 63, p. 409; C.S.Supp.,1941, § 53-363; R.S.1943, § 53-1,100; Laws 1945, c. 128, § 1, p. 411; Laws 1949, c. 170, § 1, p. 450; Laws 1977, LB 40, § 319; Laws 1991, LB 344, § 70; Laws 2016, LB1105, § 31; Laws 2018, LB1120, § 28. Effective date July 19, 2018.

53-1,104 Violations by licensee; suspension, cancellation, or revocation of license; cash penalty in lieu of suspending sales; election authorized.

(1) Any licensee which sells or permits the sale of any alcoholic liquor not authorized under the terms of such license on the licensed premises or in connection with such licensee's business or otherwise shall be subject to suspension, cancellation, or revocation of such license by the commission.

(2) When an order suspending a license to sell alcoholic liquor becomes final, the licensee may elect to pay a cash penalty to the commission in lieu of suspending sales of alcoholic liquor for the designated period if such election is not prohibited by order of the commission. Except as otherwise provided in subsection (3) of this section, for the first such suspension for any licensee, the penalty shall be fifty dollars per day, and for a second or any subsequent suspension, the penalty shall be one hundred dollars per day.

(3)(a) For a second suspension for violation of section 53-180 or 53-180.02 occurring within four years after the date of the first suspension, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for a period of time not to exceed forty-eight hours and that the licensee may not elect to pay a cash penalty. The commission may use the required suspension of sales of alcoholic liquor penalty either alone or in conjunction with suspension periods for which the licensee may elect to pay a cash penalty. For purposes of this subsection, second suspension for violation of section 53-180 shall include suspension for a violation of section 53-180.02 following suspension for a violation of section 53-180 and second suspension for violation of section 53-180.02 shall include suspension for a violation of section 53-180 following suspension for a violation of section 53-180.02;

(b) For a third or subsequent suspension for violation of section 53-180 or 53-180.02 occurring within four years after the date of the first suspension, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for a period of time not to exceed fifteen days and that the licensee may not elect to pay a cash penalty. The commission may use the required suspension of sales of alcoholic liquor penalty either alone or in conjunction with suspension periods for which the licensee may elect to pay a cash penalty. For purposes of this subsection, third or subsequent suspension for violation of section 53-180 shall include suspension for a violation of section 53-180.02 following suspension for a violation of section 53-180 and third or subsequent suspension for violation of section 53-180.02 shall include suspension for a violation of section 53-180 following suspension for a violation of section 53-180.02; and

(c) For a first suspension based upon a finding that a licensee or an employee or agent of the licensee has been convicted of possession of a gambling device on a licensee's premises in violation of sections 28-1107 to 28-1111, the commission, in its discretion, may order that the licensee be required to suspend sales of alcoholic liquor for thirty days and that the licensee may not elect to pay a cash penalty. For a second or subsequent suspension for such a violation of sections 28-1107 to 28-1111 occurring within four years after the date of the first suspension, the commission shall order that the license be canceled.

(4) For any licensee which has no violation for a period of four years consecutively, any suspension shall be treated as a new first suspension.

(5) The election provided for in subsection (2) of this section shall be filed with the commission in writing one week before the suspension is ordered to commence and shall be accompanied by payment in full of the sum required by this section. If such election has not been received by the commission by the close of business one week before the day such suspension is ordered to commence, it shall be conclusively presumed that the licensee has elected to close for the period of the suspension and any election received later shall be absolutely void and the payment made shall be returned to the licensee. The election shall be made on a form prescribed by the commission. The commission shall remit all funds collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(6) Recognizing that suspension of the license of a licensee domiciled outside of the state poses unique enforcement difficulties, the commission may, at its discretion, mandate that a licensee domiciled outside of the state pay the cash penalty found in subsection (2) of this section rather than serve the suspension.

Source: Laws 1935, c. 116, § 105, p. 429; C.S.Supp.,1941, § 53-3,105; R.S.1943, § 53-1,104; Laws 1977, LB 40, § 320; Laws 1980, LB 848, § 20; Laws 1991, LB 344, § 71; Laws 1991, LB 586, § 2; Laws 1999, LB 267, § 15; Laws 2000, LB 973, § 9; Laws 2003, LB 205, § 3; Laws 2010, LB861, § 78; Laws 2011, LB311, § 1.

(k) PROSECUTION AND ENFORCEMENT

53-1,111 Search warrants; search and seizure of property; sale; disposition of proceeds; arrests.

Upon the issuance of any search warrant pursuant to section 53-1,108, it shall be the duty of the officers executing the same to enter the house, building, premises, boat, vehicle, receptacle, or other place described, either in the daytime or nighttime, by force if necessary and to remove and confiscate any alcoholic liquor manufactured, possessed, or kept for sale contrary to the terms of the Nebraska Liquor Control Act and any machinery, equipment, or material used in connection therewith and to hold such property until all prosecution arising out of such search and seizure shall have ended and determined. It shall be the duty of the officers executing such search warrant to arrest any person or persons found using or in possession or control of such alcoholic liquor, articles, or things. All alcoholic liquor unlawfully manufactured, stored, kept, sold, or otherwise disposed of, and the containers thereof, and all equipment used or fit for use in the manufacture or production of the same which are

found at or about any still or outfit for the unlawful manufacture of alcoholic liquor on unlicensed premises are hereby declared contraband, and no right of property shall be or exist in any person owning, furnishing, or possessing any such property, liquor, material, or equipment, but all such property, articles, and things, including alcoholic liquor, shall be sold upon an order of the court as provided in section 53-1,113, and the proceeds thereof shall be disposed of in the manner provided for the disposition of license money under the Constitution of Nebraska.

Source: Laws 1935, c. 116, § 80, p. 416; C.S.Supp.,1941, § 53-380; R.S.1943, § 53-1,111; Laws 1994, LB 859, § 18; Laws 2015, LB330, § 26.

53-1,113 Search warrant; sale of property seized; procedure; destruction, when required.

(1) It shall be the duty of the officer who has seized and is holding any of the property mentioned in section 53-1,111 to make application to the court on final determination of any prosecution arising under such search and seizure, and in which such prosecution has been commenced or prosecuted, for an order to sell such property. The court, if satisfied that the property so seized and held was at the time of its seizure being kept or used, or was fit for use in the unlawful manufacture or production of alcoholic liquor, shall make an order that (a) the commission dispose of any alcoholic liquor in accordance with the Nebraska Liquor Control Act and (b) any other property and effects be sold by such officer subject to the time, place, manner, and notice of such sale set by the order.

(2) Nothing contained in the Nebraska Liquor Control Act shall be considered to authorize the sale of any alcoholic liquor unlawfully manufactured fit for human consumption which comes into the possession of any officer or the commission by seizure, confiscation, or forfeiture under the provisions of the act without the payment of all taxes and inspection fees required by the laws of this state and of the United States, and all such unlawfully manufactured alcoholic liquor which is unfit for human consumption shall be destroyed.

(3) The commission shall destroy alcoholic liquor which is unfit for human consumption and may sell alcoholic liquor, when directed by order of the court, at the time, place, and manner the commission determines to be in the public interest and subject to the taxes and inspection fees required by the laws of this state and of the United States.

Source: Laws 1935, c. 116, § 80, p. 416; C.S.Supp.,1941, § 53-380; R.S.1943, § 53-1,113; Laws 1994, LB 859, § 19; Laws 2015, LB330, § 27.

53-1,115 Proceedings before commission; service upon parties; rehearings; costs.

(1) A copy of the rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking a license or of any notice required by any proceeding before it, certified under the seal of the commission, shall be served upon each party of record to the proceeding before the commission. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the commission shall enter his or her appearance and indicate to the commission

his or her address for such service. The mailing of a copy of any rule, regulation, order, or decision of the commission or of any notice by the commission, in the proceeding, to such party at such address shall be deemed to be service upon such party.

(2) Within thirty days after the service of any rule, regulation, order, or decision of the commission denying an application or suspending, canceling, or revoking any license upon any party to the proceeding, as provided for by subsection (1) of this section, such party may apply for a rehearing with respect to any matters determined by the commission. The commission shall receive and consider such application for a rehearing within thirty days after its filing with the executive director of the commission. If such application for rehearing is granted, the commission shall proceed as promptly as possible to consider the matters presented by such application. No appeal shall be allowed from any decision of the commission except as provided in section 53-1,116.

(3) Upon final disposition of any proceeding, costs shall be paid by the party or parties against whom a final decision is rendered. Costs may be taxed or retaxed to local governing bodies as well as individuals. Only one rehearing referred to in subsection (2) of this section shall be granted by the commission on application of any one party.

(4) For purposes of this section, party of record means:

(a) In the case of an administrative proceeding before the commission on the application for a retail, bottle club, craft brewery, or microdistillery license:

(i) The applicant;

(ii) Each individual protesting the issuance of such license pursuant to subdivision (1)(b) of section 53-133;

(iii) The local governing body if it is entering an appearance to protest the issuance of the license or if it is requesting a hearing pursuant to subdivision (1)(c) of section 53-133; and

(iv) The commission;

(b) In the case of an administrative proceeding before a local governing body to cancel or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The local governing body; and

(c) In the case of an administrative proceeding before the commission to suspend, cancel, or revoke a retail, bottle club, craft brewery, or microdistillery license:

(i) The licensee; and

(ii) The commission.

Source: Laws 1989, LB 781, § 15; Laws 1993, LB 183, § 17; Laws 1999, LB 267, § 16; Laws 2004, LB 485, § 30; Laws 2007, LB549, § 20; Laws 2018, LB1120, § 29.
Effective date July 19, 2018.

53-1,120.01 County resolution or city ordinance prohibiting smoking; not applicable to cigar shops.

No county resolution or city ordinance that prohibits smoking in indoor areas shall apply to cigar shops.

Source: Laws 2009, LB355, § 5; Laws 2015, LB118, § 7.

ARTICLE 3

NEBRASKA GRAPE AND WINERY BOARD

Section

53-304. Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.

53-304 Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.

Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every one hundred sixty gallons of juice produced or received by its facility. Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received pursuant to subsection (4) or (5) of section 53-123.15 and from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund pursuant to the charge imposed by this section and excise taxes collected pursuant to section 2-5603 and any funds received as gifts, grants, or bequests and credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section and any transfers authorized pursuant to section 2-5604. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2000, LB 477, § 4; Laws 2003, LB 536, § 4; Laws 2007, LB441, § 7; Laws 2013, LB230, § 5.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 5

NEBRASKA CRAFT BREWERY BOARD

Section

- 53-501. Nebraska Craft Brewery Board; created; members; qualifications; vacancy.
- 53-502. Nebraska Craft Brewery Board; meetings; members; terms; expenses; removal; procedure.
- 53-503. Nebraska Craft Brewery Board; powers and duties.
- 53-504. Nebraska Beer Industry Promotional Fund; created; use; investment; holder of craft brewery license; annual fee; use.
- 53-505. Nebraska Craft Brewery Board; annual report; contents; fee.

53-501 Nebraska Craft Brewery Board; created; members; qualifications; vacancy.

(1) The Nebraska Craft Brewery Board is created. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in the manufacture or the wholesale or retail sale of beer in this state or engaged or previously engaged in the production in this state of agricultural products that are utilized in the brewing process. The board shall consist of seven members to be appointed by the Governor on a nonpartisan basis. At least two board members shall be selected by the Governor from a list of no fewer than ten candidates submitted by the Nebraska Craft Brewers Guild or its successor organization. In addition, at least two board members shall be selected by the Governor from a list of no fewer than ten candidates submitted by the Associated Beverage Distributors of Nebraska or its successor organization. The Director of Agriculture or his or her designee and the executive director of the Nebraska Tourism Commission or his or her designee shall be nonvoting, ex officio members of the board.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

Source: Laws 2016, LB1105, § 1.

53-502 Nebraska Craft Brewery Board; meetings; members; terms; expenses; removal; procedure.

(1) Within thirty days after the appointment of the initial members of the Nebraska Craft Brewery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves, by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each member shall serve for a term of three years and may be reappointed.

(3) All voting members of the board shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of official responsibilities as members of such board pursuant to sections 81-1174 to 81-1177.

(4) A member may be removed by the Governor for cause. The member shall first be given a written copy of the charges against him or her and also an

opportunity to be heard publicly. If a member moves out of Nebraska, that shall be deemed sufficient cause for removal from office.

Source: Laws 2016, LB1105, § 2.

53-503 Nebraska Craft Brewery Board; powers and duties.

The Nebraska Craft Brewery Board has the following powers and duties:

(1) Establish a public forum to provide any manufacturer of beer or producer of agricultural products used in the brewing process the opportunity, at least once annually, to discuss with the board its policies and procedures;

(2) Keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) Authorize and approve the expenditure of funds collected pursuant to section 53-504;

(4) Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the beer industry; and

(5) Adopt and promulgate rules and regulations to carry out sections 53-501 to 53-505.

Source: Laws 2016, LB1105, § 3.

53-504 Nebraska Beer Industry Promotional Fund; created; use; investment; holder of craft brewery license; annual fee; use.

(1) The Nebraska Beer Industry Promotional Fund is created. The fund shall consist of money credited pursuant to this section, fees received from shipping licenses issued to beer manufacturers pursuant to subsection (2) of section 53-123.15, gifts, grants, bequests, and any money appropriated by the Legislature. For administrative purposes, the fund shall be located in the Department of Agriculture.

(2) Beginning July 1, 2016, in addition to the annual license fee imposed by section 53-124.01, each holder of a craft brewery license shall pay an annual fee in the amount of two hundred fifty dollars to the Nebraska Liquor Control Commission or shall opt out of paying the additional fee on forms provided by the commission. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Nebraska Beer Industry Promotional Fund.

(3) The Department of Agriculture, at the direction of and in cooperation with the Nebraska Craft Brewery Board, shall use the Nebraska Beer Industry Promotional Fund to develop and maintain programs for the research and advancement of the beer brewing process, the marketing and promotion of the beer industry in Nebraska, and the marketing and promotion of agricultural products and their byproducts grown and produced in Nebraska for use in the beer industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the field of beer brewing and business development, as deemed necessary by the board, and programs to carry out the purposes of this subsection. None of the money credited to the Nebraska Beer Industry Promotional Fund may be used for lobbying purposes.

(4) Money in the Nebraska Beer Industry Promotional Fund not expended during any fiscal year may be reappropriated for the ensuing biennium. Any money in the fund available for investment shall be invested by the state

investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2016, LB1105, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

53-505 Nebraska Craft Brewery Board; annual report; contents; fee.

(1) The Nebraska Craft Brewery Board shall publish an annual report on or before January 1 of each year which shall set forth in detail the following:

(a) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(b) A detailed explanation of all programs for which the board approved funding during the most recently completed fiscal year pursuant to section 53-504.

(2) Each annual report shall be presented electronically to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

Source: Laws 2016, LB1105, § 5.

LIVESTOCK

CHAPTER 54
LIVESTOCK

Article.

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4. Estrays and Trespassing Animals. 54-415.
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 - (a) Dogs. 54-603.
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23. Domesticated Cervine Animal Act. 54-2306, 54-2320.
24. Livestock Waste Management Act. 54-2428.
26. Competitive Livestock Markets Act. 54-2601 to 54-2627.01.
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ARTICLE 1

LIVESTOCK BRAND ACT

Section

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- 54-1,129. Livestock auction market or packing plant; brand inspection; election to provide.
- 54-1,130. Livestock auction market or packing plant; election; how made.
- 54-1,131. Livestock auction market or packing plant; brand inspection; how conducted; fees; guarantee.

54-170 Act, how cited.

Sections 54-170 to 54-1,131 shall be known and may be cited as the Livestock Brand Act.

Source: Laws 1999, LB 778, § 1; Laws 2000, LB 213, § 3; Laws 2013, LB435, § 1; Laws 2014, LB768, § 1; Laws 2014, LB884, § 1.

54-171 Definitions; where found.

For purposes of the Livestock Brand Act, the definitions found in sections 54-172 to 54-190 shall be used.

Source: Laws 1999, LB 778, § 2; Laws 2013, LB435, § 2; Laws 2014, LB768, § 2.

54-172 Bill of sale, defined.

Bill of sale means a formal instrument for the conveyance or transfer of title to livestock or other goods and chattels. The bill of sale shall state the purchaser's name and address, the date of transfer, the guarantee of title, the number of livestock transferred, the sex of such livestock, the brand or brands, the location of the brand or brands or a statement to the effect that the animal is unbranded, and the name and address of the seller. The signature of the seller shall be attested by at least one witness or acknowledged by a notary public or by some other officer authorized by state law to take acknowledgments. For any conveyance or transfer of title to cattle subject to assessment imposed pursuant to the federal Beef Promotion and Research Order, 7 C.F.R. part 1260, for which the purchaser is the collecting person pursuant to 7 C.F.R. 1260.311 for purposes of collecting and remitting such assessment, the bill of sale shall include a notation of the amount the purchaser collected from the seller or deducted from the sale proceeds for the assessment. A properly executed bill of sale means a bill of sale that is provided by the seller and received by the purchaser.

Source: Laws 1999, LB 778, § 3; Laws 2014, LB768, § 3.

54-175.01 Brand inspection service area, defined.

Brand inspection service area means all Nebraska counties and areas of Nebraska counties contiguous with the brand inspection area designated by section 54-1,109.

Source: Laws 2014, LB768, § 4.

54-179 Certificate of inspection, defined.

Certificate of inspection means the official document issued and signed by a brand inspector authorizing (1) movement of livestock from a point of origin within the brand inspection area to a destination either inside or outside of the brand inspection area or outside of this state, (2) slaughter of livestock as specified on such certificate, or (3) the change of ownership of livestock as specified on such certificate. A certificate of inspection shall designate, as needed, the name of the shipper, consignor, or seller of the livestock, the purchaser or consignee of the livestock, the destination of the livestock, the vehicle license number or carrier number, the miles driven by an inspector to perform inspection, the amount of inspection fees collected, the number and sex of the livestock to be moved or slaughtered, the brands, if any, on the livestock, and the brand owner. A certificate of inspection shall be construed and is intended to be documentary evidence of ownership on all livestock covered by such document.

Source: Laws 1999, LB 778, § 10; Laws 2017, LB600, § 1.

54-186.01 Out-of-state brand permit, defined.

Out-of-state brand permit means an authorization for a one-time use of a brand registered with a state other than Nebraska to brand cattle imminently being exported out of Nebraska.

Source: Laws 2013, LB435, § 3.

54-189 Satisfactory evidence of ownership, defined.

Satisfactory evidence of ownership consists of the brands, tattoos, or marks on the livestock; point of origin of livestock; the physical description of the livestock; the documentary evidence, such as bills of sale, brand clearance, certificates of inspection, breed registration certificates, animal health or testing certificates, genomic testing certificates, recorded brand certificates, purchase sheets, scale tickets, disclaimers of interest, affidavits, court orders, security agreements, powers of attorney, canceled checks, bills of lading, or tags; and such other facts, statements, or circumstances that taken in whole or in part cause an inspector to believe that proof of ownership is established.

Source: Laws 1999, LB 778, § 20; Laws 2017, LB600, § 2.

54-191 Nebraska Brand Committee; created; members; terms; vacancy; bond or insurance; expenses; purpose.

(1) The Nebraska Brand Committee is hereby created. Beginning August 28, 2007, the brand committee shall consist of five members appointed by the Governor. At least three appointed members shall be active cattlemen and at least one appointed member shall be an active cattle feeder. The Secretary of State and the Director of Agriculture, or their designees, shall be nonvoting, ex officio members of the brand committee. The appointed members shall be owners of cattle within the brand inspection area, shall reside within the brand

inspection area, shall be owners of Nebraska-recorded brands, and shall be persons whose principal business and occupation is the raising or feeding of cattle within the brand inspection area.

(2) The members of the brand committee shall elect a chairperson and vice-chairperson from among its appointed members during the first meeting held after September 1 each calendar year. A member may be reelected to serve as chairperson or vice-chairperson.

(3) The terms of the members shall be four-year, staggered terms, beginning on August 28 of the year of initial appointment or reappointment and concluding on August 27 of the year of expiration. At the expiration of the term of an appointed member, the Governor shall appoint a successor. If there is a vacancy on the brand committee, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant.

(4) The action of a majority of the members shall be deemed the action of the brand committee. No appointed member shall hold any elective or appointive state or federal office while serving as a member of the brand committee. Each member and each brand committee employee who collects or who is the custodian of any funds shall be bonded or insured as required under section 11-201. The appointed members of the brand committee shall be paid their actual and necessary traveling expenses in attending meetings of the brand committee or in performing any other duties that are prescribed in the Livestock Brand Act or section 54-415, as provided for in sections 81-1174 to 81-1177.

The purpose of the Nebraska Brand Committee is to protect Nebraska brand and livestock owners from the theft of livestock through established brand recording, brand inspection, and livestock theft investigation.

Source: Laws 1999, LB 778, § 22; Laws 2004, LB 884, § 26; Laws 2007, LB422, § 1; Laws 2017, LB600, § 3.

54-192 Nebraska Brand Committee; employees; executive director; duties; brand recorder; grievance procedure.

(1) The Nebraska Brand Committee shall employ such employees as may be necessary to properly carry out the Livestock Brand Act and section 54-415, fix the salaries of such employees, and make such expenditures as are necessary to properly carry out such act and section. Employees of the brand committee shall receive mileage computed at the rate provided in section 81-1176. The brand committee shall select and designate a location or locations where the brand committee shall keep and maintain an office and where records of the brand inspection and investigation proceedings, transactions, communications, brand registrations, and official acts shall be kept.

(2) The brand committee shall employ an executive director who shall be the brand committee head for administrative purposes. The executive director shall also be chief investigator and chief brand inspector. Any person employed as executive director who at the time of hire does not possess a valid law enforcement certificate or diploma as required to exercise the authority of an investigator shall complete the requirements for such certificate or diploma within two years after the date of hire and shall assume the title of chief investigator upon obtaining such certificate or diploma. The executive director's duties during such period prior to obtaining such certificate or diploma

shall not be within the authority granted under a commission as a deputy state sheriff. The director shall keep a record of all proceedings, transactions, communications, and official acts of the brand committee, shall be custodian of all records of the brand committee, and shall perform such other duties as may be required by the brand committee. The director shall call a meeting at the direction of the chairperson of the brand committee, or in his or her absence the vice-chairperson, or upon the written request of two or more members of the brand committee. The director shall have supervisory authority to direct and control all full-time and part-time employees of the brand committee. This authority allows the director to hire employees as are needed on an interim basis subject to approval or confirmation by the brand committee for regular employment. The director may place employees on probation and may discharge an employee.

(3) The brand committee shall employ a brand recorder who shall be responsible for the processing of all applications for new livestock brands, the transfer of ownership of existing livestock brands, the maintenance of accurate and permanent records relating to livestock brands, and such other duties as may be required by the brand committee.

(4) If any employee of the brand committee after having been disciplined, placed on probation, or having had his or her services terminated desires to have a hearing before the entire brand committee, such a hearing shall be granted as soon as is practicable and convenient for all persons concerned. The request for such a hearing shall be made in writing by the employee alleging the grievance and shall be directed to the director. After hearing all testimony surrounding the grievance of such employee, the brand committee, at its discretion, may approve, rescind, nullify, or amend all actions as previously taken by the director.

Source: Laws 1999, LB 778, § 23; Laws 2007, LB422, § 2; Laws 2017, LB600, § 4.

54-195 Assessments and promotional materials.

(1) The Nebraska Brand Committee may contract to collect assessments made by any public, quasi-public, or private agency or organization on the sale of cattle, beef, and beef products in Nebraska by producers and importers of such cattle, beef, and beef products. The brand committee may charge such agency or organization for collection of the assessments. The charge for collection of assessments shall be used to cover administrative costs of the brand committee, but such charge shall not exceed five percent of the assessments collected.

(2) The brand committee may authorize and direct its employees to disseminate or otherwise distribute various materials promoting the cattle industry.

Source: Laws 1999, LB 778, § 26; Laws 2017, LB600, § 5.

54-198 Recorded livestock brand; requirements; in-herd identification; prohibited act.

(1) Any person may record a brand, which he or she has the exclusive right to use in this state, and it is unlawful to use any brand for branding any livestock unless the person using such brand has recorded that brand with the Nebraska Brand Committee. A brand is a mark consisting of symbols, characters, numerals, or a combination of such intended as a visual means of identification when

applied to the hide of an animal or another method of livestock identification approved by rule and regulation of the brand committee, including an electronic device used for livestock identification. Only a hot iron or freeze brand or other method approved by the brand committee shall be used to brand a live animal.

(2) A hot iron brand or freeze brand may be used for in-herd identification purposes such as for year or production records. With respect to hot iron brands used for in-herd identification, the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are reserved on both the right and left shoulder of all cattle, except that such shoulder location for a single-number hot iron brand may be used for year branding for in-herd identification purposes, and an alphabetical letter may be substituted for one of the numerals used in a triangular configuration for in-herd identification purposes. Hot iron brands used for in-herd identification shall be used in conjunction with the recorded hot iron brand and shall be on the same side of the animal as the recorded hot iron brand. Freeze branding for in-herd identification may be applied in any location and any configuration with any combination of numerals or alphabetical letters.

(3) It shall be unlawful to knowingly maintain a herd containing one or more animals which the possessor has branded, or caused to be branded, in violation of this section or any other provision of the Livestock Brand Act.

Source: Laws 1999, LB 778, § 29; Laws 2000, LB 213, § 4; Laws 2002, LB 589, § 2; Laws 2017, LB600, § 6.

54-1,100 Recorded brand; transfer; lien or security interest; notice; effect; fee; effect; lease of brand; fee.

(1) A recorded brand is the property of the person causing such record to be made and is subject to sale, assignment, transfer, devise, and descent as personal property. Any instrument of writing evidencing the sale, assignment, or transfer of a recorded brand shall be effective upon its recording with the Nebraska Brand Committee. No such instrument shall be accepted for recording if the brand committee has been duly notified of the existence of a lien or security interest against livestock owned or thereafter acquired by the owner of such brand by the holder of such lien or security interest. Written notification from the holder of such lien or security interest that the lien or security interest has been satisfied or consent from the holder of such lien or security interest shall be required in order for the brand committee to accept for recording an instrument selling, assigning, or transferring such recorded brand. Except as provided in subsection (2) of this section, the fee for recording such an instrument shall be established by the brand committee and shall not be more than forty dollars. Such instrument shall give notice to all third persons of the matter recorded in the instrument and shall be acknowledged by a notary public or any other officer qualified under law to administer oaths.

(2) The owner of a recorded brand may lease the brand to another person upon compliance with this subsection and subject to the approval of the brand committee. The lessee shall pay a filing fee established by the brand committee not to exceed one hundred dollars. The leased recorded brand may expire as

agreed in the lease, but in no event shall such leased recorded brand exceed the original expiration date.

Source: Laws 1999, LB 778, § 31; Laws 2002, LB 589, § 4; Laws 2009, LB142, § 1; Laws 2017, LB600, § 7.

54-1,105 Brands; distinction requirements.

(1) Cattle branded with a Nebraska-recorded visual brand shall be branded so that the recorded brand of the owner shows distinctly.

(2) If the owners of recorded brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the Nebraska Brand Committee has the authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such recorded brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

Source: Laws 1999, LB 778, § 36; Laws 2002, LB 589, § 6; Laws 2017, LB600, § 8.

54-1,108 Brand inspections; when; fees; surcharge; reinspection; when.

(1) All brand inspections provided for in the Livestock Brand Act or section 54-415 shall be from sunrise to sundown or during such other hours and under such conditions as the Nebraska Brand Committee determines.

(2)(a) An inspection fee, established by the Nebraska Brand Committee, of not more than one dollar and ten cents per head shall be charged for all cattle inspected in accordance with the Livestock Brand Act or section 54-415 or inspected within the brand inspection area or brand inspection service area by court order or at the request of any bank, credit agency, or lending institution with a legal or financial interest in such cattle. Such fee may vary to encourage inspection to be performed at times and locations that reduce the cost of performing the inspection but shall otherwise be uniform. The inspection fee for court-ordered inspections shall be paid from the proceeds of the sale of such cattle if ordered by the court or by either party as the court directs. For other inspections, the person requesting the inspection of such cattle is responsible for the inspection fee. Brand inspections requested by either a purchaser or seller of cattle located within the brand inspection service area shall be provided upon the same terms and charges as brand inspections performed within the brand inspection area. If stray cattle are identified as a result of the inspection, such cattle shall be processed in the manner provided by section 54-415.

(b) A surcharge of not more than twenty dollars, as established by the brand committee, may be charged to cover travel expenses incurred by the brand inspector per inspection location when performing brand inspections. The surcharge shall be collected by the brand inspector and paid by the person requesting the inspection or the person required by law to have the inspection.

(c) Fees for inspections performed outside of the brand inspection area that are not provided for in subdivision (a) of this subsection shall be the inspection fee established in such subdivision plus a fee to cover the actual expense of performing the inspection, including mileage at the rate established by the Department of Administrative Services and an hourly rate, not to exceed thirty

dollars per hour, for the travel and inspection time incurred by the brand committee to perform such inspection. The brand committee shall charge and collect the actual expense fee. Such fee shall apply to inspections performed outside the brand inspection area as part of an investigation into known or alleged violations of the Livestock Brand Act and shall be charged against the person committing the violation.

(3) Any person who has reason to believe that cattle were shipped erroneously due to an inspection error during a brand inspection may request a reinspection. The person making such request shall be responsible for the expenses incurred as a result of the reinspection unless the results of the reinspection substantiate the claim of inspection error, in which case the brand committee shall be responsible for the reinspection expenses.

Source: Laws 1999, LB 778, § 39; Laws 2002, LB 589, § 7; Laws 2005, LB 441, § 2; Laws 2011, LB181, § 1; Laws 2014, LB768, § 5; Laws 2015, LB85, § 1.

54-1,110 Brand inspection area; brand inspection requirements.

(1) Except as provided in subsections (2) and (3) of this section, no person shall move, in any manner, cattle from a point within the brand inspection area to a point outside the brand inspection area unless such cattle first have a brand inspection by the Nebraska Brand Committee and a certificate of inspection is issued. A copy of such certificate shall accompany the cattle and shall be retained by all persons moving such cattle as a permanent record.

(2) Cattle in a registered feedlot registered under sections 54-1,120 to 54-1,122 are not subject to the brand inspection of subsection (1) of this section. Possession by the shipper or trucker of a shipping certificate from the registered feedlot constitutes compliance if the cattle being shipped are as represented on such shipping certificate.

(3) If the line designating the brand inspection area divides a farm or ranch or lies between noncontiguous parcels of land which are owned or operated by the same cattle owner or owners, a permit may be issued, at the discretion of the Nebraska Brand Committee, to the owner or owners of cattle on such farm, ranch, or parcels of land to move the cattle in and out of the brand inspection area without inspection. If the line designating the brand inspection area lies between a farm or ranch and nearby veterinary medical facilities, a permit may be issued, at the discretion of the brand committee, to the owner or owners of cattle on such farm or ranch to move the cattle in and out of the brand inspection area without inspection to obtain care from the veterinary medical facilities. The brand committee shall issue initial permits only after receiving an application which includes an application fee established by the brand committee which shall not be more than fifteen dollars. The brand committee shall mail all current permitholders an annual renewal notice, for January 1 renewal, which requires a renewal fee established by the brand committee which shall not be more than fifteen dollars. If the permit conditions still exist, the cattle owner or owners may renew the permit.

(4) No person shall sell any cattle knowing that the cattle are to be moved, in any manner, in violation of this section. Proof of shipment or removal of the cattle from the brand inspection area by the purchaser or his or her agent is prima facie proof of knowledge that sale was had for removal from the brand inspection area.

(5) In cases of prosecution for violation of this section, venue may be established in the county of origin or any other county through which the cattle may pass in leaving the brand inspection area.

Source: Laws 1999, LB 778, § 41; Laws 2000, LB 213, § 6; Laws 2002, LB 589, § 8; Laws 2014, LB768, § 6; Laws 2017, LB600, § 9.

54-1,111 Brand inspection area; sale or trade of cattle; requirements.

(1) Except as provided in subsection (2) of this section, no person shall sell or trade any cattle located within the brand inspection area, nor shall any person buy or purchase any such cattle unless the cattle have been inspected for brands and ownership and a certificate of inspection or brand clearance has been issued by the Nebraska Brand Committee. Any person selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership which shall be filed with the original certificate of inspection in the records of the brand committee. Any time a brand inspection is required by law, a brand investigator or brand inspector may transfer evidence of ownership of such cattle from a seller to a purchaser by issuing a certificate of inspection.

(2) A brand inspection is not required:

(a) For cattle of a registered feedlot registered under sections 54-1,120 to 54-1,122 shipped for direct slaughter or sale on any terminal market;

(b) For cattle that are:

(i) Transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members; or

(ii) Transferred to a limited liability company in which membership is limited to the husband, wife, children, or grandchildren of the transferor and there is no consideration paid for the transfer other than a membership interest in the limited liability company;

(c) When the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision (2)(b) or (c) of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the brand committee;

(d) For cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a properly executed bill of sale is exchanged and presented upon demand. Educational or exhibition purpose means cattle sold or purchased for the purpose of being fed, bred, managed, or tended in a program designed to demonstrate or instruct in the use of various feed rations, the selection of individuals of certain physical conformation or breeds, the measurement and recording of rate of gain in weight or fat content of meat or milk produced, or the preparation of cattle for the purpose of exhibition or for judging as to quality and conformation;

(e) For calves under the age of thirty days sold or purchased at private treaty if a bill of sale is exchanged and presented upon demand; and

(f) For seedstock cattle raised by the seller and individually registered with an organized breed association if a properly executed bill of sale is exchanged and presented upon demand.

Source: Laws 1999, LB 778, § 42; Laws 2000, LB 213, § 7; Laws 2014, LB768, § 7; Laws 2017, LB600, § 10.

54-1,115 Livestock transportation authority form; requirements.

(1) Any person, other than the owner or the owner's employee, using a motor vehicle or trailer to transport livestock or carcasses over any land within the State of Nebraska not owned or rented by such person or who is so transporting such livestock upon a highway, public street, or thoroughfare within the State of Nebraska shall have in his or her possession a livestock transportation authority form, certificate of inspection, or shipping certificate from a registered feedlot, authorizing such movement as to each head of livestock transported by such vehicle.

(2) A livestock transportation authority form shall be in writing and shall state the name of the owner of the livestock, the owner's post office address, the place from which the livestock are being moved, including the name of the ranch, if any, the destination, the name and address of the carrier, the license number and make of motor vehicle to which consigned, together with the number of livestock and a description thereof including kind, sex, breed, color, and marks, if any, and in the case of livestock shipments originating within the brand inspection area, the brands, if there are any. The authority form shall be signed by the owner of the livestock or the owner's authorized agent.

(3) Any peace officer, based upon probable cause to question the ownership of the livestock being transported, may stop a motor vehicle or motor vehicle and trailer and request exhibition of any authority form or certificate required by this section.

Source: Laws 1999, LB 778, § 46; Laws 2000, LB 213, § 8; Laws 2017, LB600, § 11.

Cross References

Duty to care for livestock, violation, penalty, see section 54-7,104.

54-1,119 Open market; designation; brand inspection requirements.

(1) Any livestock market, whether within or outside of the state, or any meat packing plant which maintains brand inspection under the supervision of the Nebraska Brand Committee and under such rules and regulations as are specified by the United States Department of Agriculture, may be designated by the brand committee as an open market.

(2) When cattle originating from within the brand inspection area are consigned for sale to any commission company at any open market designated as such by the Nebraska Brand Committee where brand inspection is maintained, no brand inspection is required at the point of origin but is required at the point of destination unless the point of origin is a registered feedlot. If cattle are consigned to a commission company at an open market, the carrier transporting the cattle shall not allow the owner, shipper, or party in charge to change the billing to any point other than the commission company at the open market designated on the original billing, unless the carrier secures from the brand committee a certificate of inspection on the cattle so consigned. Any

cattle originating in a registered feedlot consigned to a commission company at any terminal market destined for direct slaughter may be shipped in accordance with rules and regulations governing registered feedlots.

(3) Until the cattle are inspected for brands on the premises by the Nebraska Brand Committee, no person shall sell or cause to be sold or offer for sale (a) any cattle at a livestock auction market located within the brand inspection area or at a farm or ranch sale located within the brand inspection area or (b) any cattle originating within the brand inspection area consigned to an open market.

Source: Laws 1999, LB 778, § 50; Laws 2000, LB 213, § 9; Laws 2017, LB600, § 12.

54-1,120 Registered feedlot; application; requirements; fees; inspections; records.

(1) Any person who operates a cattle feeding operation located within the brand inspection area may make application to the Nebraska Brand Committee for registration as a registered feedlot. The application form shall be prescribed by the brand committee and shall be made available by the director of the brand committee for this purpose upon written request. If the applicant is an individual, the application shall include the applicant's social security number. After the brand committee has received a properly completed application, an agent of the brand committee shall within thirty days make an investigation to determine if the following requirements are satisfied:

(a) The operator's feedlot must be permanently fenced; and

(b) The operator must commonly practice feeding cattle to finish for slaughter.

If the application is satisfactory, and upon payment of an initial registration fee by the applicant, the brand committee shall issue a registration number and registration certificate valid for one year unless rescinded for cause. If the registration is rescinded for cause, any registration fee shall be forfeited by the applicant. The initial fee for a registered feedlot shall be an amount for a registered feedlot having one thousand head or less capacity and an equal amount for each additional one thousand head capacity, or part thereof, of such registered feedlot. For each subsequent year, the renewal fee for a registered feedlot shall be an amount for the first one thousand head or portion thereof of average annual inventory of cattle on feed of the registered feedlot and an equal amount for each additional one thousand head or portion thereof of average annual inventory of cattle on feed of the registered feedlot. The brand committee shall set the fee per one thousand head capacity or average annual inventory so as to correspond with the inspection fee provided under section 54-1,108. The registration fee shall be paid on an annual basis.

(2) The brand committee may adopt and promulgate rules and regulations for the operation of registered feedlots to assure that brand laws are complied with, that registered feedlot shipping certificates are available, and that proper records are maintained. Violation of sections 54-1,120 to 54-1,122 subjects the operator to revocation or suspension of the feedlot registration issued. Sections 54-1,120 to 54-1,122 shall not be construed as prohibiting the operation of nonregistered feedlots.

(3) Registered feedlots are subject to inspection at any reasonable time at the discretion of the brand committee and its authorized agents, and the operator shall show cattle purchase records or certificates of inspection to cover all cattle in his or her feedlot. Cattle having originated from such registered feedlots may from time to time, at the discretion of the committee, be subject to a spot-check inspection and audit at destination to enable the brand committee to assure satisfactory compliance with the brand laws by the registered feedlot operator.

(4) The operator of a registered feedlot shall keep cattle inventory records. A form for such purpose shall be prescribed by the brand committee. The brand committee and its employees may from time to time make spot checks and audits of the registered feedlots and the records of cattle on feed in such feedlots.

(5) The brand committee may rescind the registration of any registered feedlot operator who fails to cooperate or violates the laws or rules and regulations of the brand committee covering registered feedlots.

Source: Laws 1999, LB 778, § 51; Laws 2014, LB768, § 8.

54-1,121 Registered feedlot; cattle shipment; requirements.

Cattle sold or shipped from a registered feedlot, for purposes other than direct slaughter or sale on any terminal market, are subject to the brand inspection under sections 54-1,110 to 54-1,119, and the seller or shipper shall bear the cost of such inspection at the regular fee.

Any other cattle shipped from a registered feedlot are not subject to brand inspection at origin or destination, but the shipper must have a shipping certificate from the registered feedlot. The shipping certificate form shall be prescribed by the Nebraska Brand Committee and shall show the registered feedlot operator's name and registration number, date shipped, destination, agency receiving the cattle, number of head in the shipment, and sex of the cattle. The shipping certificate shall be completed in triplicate by the registered feedlot operator at the time of shipment. One copy thereof shall be delivered to the brand inspector at the market along with shipment, if applicable, one copy shall be sent to the brand committee by the tenth day of the following month, and one copy shall be retained by the registered feedlot operator. If a shipping certificate does not accompany a shipment of cattle from a registered feedlot to any destination where brand inspection is maintained by the brand committee, all such cattle shall be subject to a brand inspection and the inspection fees and surcharge provided under section 54-1,108 shall be charged for the service.

Source: Laws 1999, LB 778, § 52; Laws 2000, LB 213, § 10; Laws 2011, LB181, § 2.

54-1,122 Registered feedlot; cattle received; requirements.

Any cattle originating in a state that has a brand inspection agency and which are accompanied by a certificate of inspection or brand clearance issued by such agency may be moved directly from the point of origin into a registered feedlot. Any cattle not accompanied by such a certificate of inspection or brand clearance or by satisfactory evidence of ownership from states or portions of states not having brand inspection shall be inspected for brands by the Nebraska Brand Committee within a reasonable time after arrival at a registered feedlot, and the inspection fee and surcharge provided under section 54-1,108

shall be collected by the brand inspector at the time the inspection is performed.

Source: Laws 1999, LB 778, § 53; Laws 2011, LB181, § 3.

54-1,122.01 Repealed. Laws 2017, LB600, § 14.

54-1,122.02 Repealed. Laws 2017, LB600, § 14.

54-1,128 Brand with brand recorded or registered in another state; application for out-of-state brand permit; contents; fee.

(1) An owner may brand cattle with a brand recorded or registered in another state when:

(a) Cattle are purchased at a livestock auction market licensed under the Livestock Auction Market Act or congregated at another location approved by the Nebraska Brand Committee;

(b) The cattle will be imminently exported from Nebraska;

(c) The cattle are branded at the livestock auction market or other approved location; and

(d) An out-of-state brand permit has been obtained prior to branding the cattle.

(2) An application for an out-of-state brand permit shall be made to a brand inspector and shall include a description of the brand, a written application, and a fee not to exceed fifty dollars as determined by the Nebraska Brand Committee. A brand inspector shall evaluate and may approve an out-of-state brand permit within a reasonable period of time.

(3) Cattle branded under an out-of-state brand permit shall remain subject to all other brand inspection requirements under the Livestock Brand Act.

Source: Laws 2013, LB435, § 4.

Cross References

Livestock Auction Market Act, see section 54-1156.

54-1,129 Livestock auction market or packing plant; brand inspection; election to provide.

The owner or operator of any livestock auction market, as defined in section 54-1158, or packing plant located in any county outside the brand inspection area may voluntarily elect to provide brand inspection for all cattle brought to such livestock auction market or packing plant from within the brand inspection area upon compliance with sections 54-1,129 to 54-1,131.

Source: Laws 1963, c. 319, § 28, p. 972; Laws 1987, LB 450, § 9; Laws 1999, LB 778, § 76; R.S.1943, (2010), § 54-1183; Laws 2014, LB884, § 2.

54-1,130 Livestock auction market or packing plant; election; how made.

The election provided for by section 54-1,129 shall be made by (1) filing with the Secretary of State, in form to be prescribed by the secretary, a written notice of such election and agreement to be bound by section 54-1,131 and (2)

posting conspicuously on the premises a notice of the fact that brand inspection is provided at such livestock auction market or packing plant.

Source: Laws 1963, c. 319, § 29, p. 973; Laws 1987, LB 450, § 10; R.S.1943, (2010), § 54-1184; Laws 2014, LB884, § 3.

54-1,131 Livestock auction market or packing plant; brand inspection; how conducted; fees; guarantee.

Inspection provided for in sections 54-1,129 to 54-1,131 shall be conducted in the manner established by the Livestock Brand Act. The owner or operator making such election may be required to guarantee to the Nebraska Brand Committee that inspection fees derived from such livestock auction market or packing plant will be sufficient, in each twelve-month period, to pay the per diem and mileage of the inspectors required and that he or she will reimburse the committee for any deficit incurred in any such twelve-month period. Such guarantee shall be secured by a corporate surety bond, to be approved by the Secretary of State, in a penal sum to be established by the Nebraska Brand Committee.

Source: Laws 1963, c. 319, § 30, p. 973; Laws 1987, LB 450, § 11; Laws 1999, LB 778, § 77; Laws 2000, LB 213, § 11; R.S.1943, (2010), § 54-1185; Laws 2014, LB884, § 4.

ARTICLE 2

LIENS

Section

- 54-201. Agister's lien; domestic and foreign; perfection; financing statement; filing; enforcement; fee.
- 54-208. Lien for feed, feed ingredients, and related costs; perfection; financing statement; filing; enforcement; fee.
- 54-209. Lien satisfied; financing statement; termination.

54-201 Agister's lien; domestic and foreign; perfection; financing statement; filing; enforcement; fee.

(1) When any person, firm, corporation, partnership, or limited liability company not provided for in subsection (2) of this section procures, contracts with, or hires any other person, firm, corporation, partnership, or limited liability company to feed and take care of any kind of livestock, the person, firm, corporation, partnership, or limited liability company so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care furnished for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care, as long as the holders of any prior liens shall have agreed in writing to the contract for the feed and care of the livestock involved. A lien created under this subsection shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. A lien created under this subsection shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall be filed prior to removal of such livestock from the premises of the person, firm, corporation, partnership, or limited liability company entitled to a lien and shall contain or have attached thereto (a) the name and address and the social security number

or federal tax identification number of the person, firm, corporation, partnership, or limited liability company claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished, (c) a description of the livestock fed and furnished care, and (d) the amount justly due for the feeding and care. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(2) When any person, firm, corporation, partnership, or limited liability company whose residence or principal place of business is located outside the State of Nebraska procures, contracts with, or hires any other person, firm, corporation, partnership, or limited liability company within the State of Nebraska to feed and take care of any kind of livestock, the person, firm, corporation, partnership, or limited liability company so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care furnished for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care. A lien created under this subsection shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code. A lien created under this subsection shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall be filed prior to removal of such livestock from the premises of the person, firm, corporation, partnership, or limited liability company entitled to a lien and shall contain or have attached thereto (a) the name and address and the social security number or federal tax identification number of the person, firm, corporation, partnership, or limited liability company claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished, (c) a description of the livestock fed and furnished care, and (d) the amount justly due for the feeding and care. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, corporation, partnership, or limited liability company for whom the feeding and care were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

(3) Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Source: Terr. Laws 1867, § 1, p. 12; Laws 1889, c. 31, § 1, p. 378; R.S.1913, § 89; C.S.1922, § 97; C.S.1929, § 54-201; Laws 1935, c. 118, § 1, p. 433; C.S.Supp.,1941, § 54-201; R.S.1943, § 54-201; Laws 1982, LB 962, § 2; Laws 1984, LB 808, § 7; Laws 1988, LB 943, § 18; Laws 1993, LB 121, § 335; Laws 1998, LB 1321, § 96; Laws 1999, LB 550, § 36; Laws 2001, LB 54, § 25; Laws 2014, LB750, § 16.

54-208 Lien for feed, feed ingredients, and related costs; perfection; financing statement; filing; enforcement; fee.

When any person, firm, partnership, limited liability company, or corporation contracts or agrees with another person, firm, partnership, limited liability company, or corporation to deliver any feed or feed ingredients for any kind of livestock, the person, firm, partnership, limited liability company, or corporation so contracted or agreed with shall have a lien upon such livestock for the feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients for the agreed-upon contract price or, in case no price has been agreed upon, for the reasonable value of such feed or feed ingredients and related delivery costs, which shall be a first, paramount, and prior lien if the holders of any prior liens have agreed in writing to the contract for the feed or feed ingredients and related delivery costs. The lien may only be enforced against the person, firm, partnership, limited liability company, or corporation who has contracted or agreed for such feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients.

A lien created under this section shall be perfected as provided in article 9, Uniform Commercial Code. Any financing statement filed to perfect such lien shall contain or have attached thereto:

(1) The name and address and the social security number or federal tax identification number of the person, firm, partnership, limited liability company, or corporation claiming the lien;

(2) The name and address and the social security number or federal tax identification number, if known, of the person, firm, partnership, limited liability company, or corporation for whom such feed or feed ingredients were delivered;

(3) The amount due for such feed or feed ingredients and related delivery costs covered by the lien;

(4) The place where such livestock are located;

(5) A reasonable description of such livestock including the number and type of such livestock; and

(6) The last date on which such feed or feed ingredients were delivered.

The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person, firm, partnership, limited liability company, or corporation for whom the feed or feed ingredients were delivered.

Such lien shall attach and have priority as of the date of the filing if filed in the manner provided in this section. Such lien shall be treated in all respects as an agricultural lien as provided in article 9, Uniform Commercial Code, and may be enforced in the manner and form provided for the enforcement of secured transactions as provided in article 9, Uniform Commercial Code.

The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-525, Uniform Commercial Code.

Effective January 1, 2015, this section applies to a lien created under this section regardless of when the lien was created.

Nothing in this section shall be construed to amend or repeal section 54-201 relating to agisters' liens.

Source: Laws 1984, LB 1064, § 1; Laws 1988, LB 943, § 19; Laws 1993, LB 121, § 336; Laws 1998, LB 1321, § 97; Laws 1999, LB 550, § 37; Laws 2001, LB 54, § 26; Laws 2014, LB750, § 17.

54-209 Lien satisfied; financing statement; termination.

When a lien created under section 54-201 or 54-208 is satisfied, any financing statement filed to perfect that lien shall be terminated in the manner and form provided in article 9, Uniform Commercial Code.

Source: Laws 1985, LB 606, § 16; Laws 1988, LB 943, § 20; Laws 1999, LB 550, § 38; Laws 2001, LB 54, § 27; Laws 2014, LB750, § 18.

ARTICLE 4

ESTRAYS AND TRESPASSING ANIMALS

Section

54-415. Estrays; report; sale; procedure; disposition of proceeds; violations; penalty.

54-415 Estrays; report; sale; procedure; disposition of proceeds; violations; penalty.

Any person taking up an estray within the brand inspection area or brand inspection service area shall report the same within seven days thereafter to the Nebraska Brand Committee. Any person taking up an estray in any other area of the state shall report the same to the county sheriff of the county where the estray was taken. If the animal is determined to be an estray by a representative of the Nebraska Brand Committee or the county sheriff, as the case may be, such animal shall, as promptly as may be practicable, be sold through the most convenient livestock auction market. The proceeds of such sale, after deducting the selling expenses, shall be paid over to the Nebraska Brand Committee to be placed in the estray fund identified in section 54-1,118, if such estray was taken up within the brand inspection area or brand inspection service area, and otherwise to the treasurer of the county in which such estray was taken up. During the time such proceeds are impounded, any person taking up such estray may file claim with the Nebraska Brand Committee or the county treasurer, as the case may be, for the expense of feeding and keeping such estray while in his or her possession. When such claim is filed it shall be the duty of the Nebraska Brand Committee or the county board, as the case may be, to decide on the validity of the claim so filed and allow the claim for such amount as may be deemed equitable. When the estray is taken up within the brand inspection area or brand inspection service area, such proceeds shall be impounded for one year, unless ownership is determined sooner by the Nebraska Brand Committee, and if ownership is not determined within such one-year period, the proceeds shall be paid into the permanent school fund, less the actual expenses incurred in the investigation and processing of the estray fund. Any amount deducted as actual expenses incurred shall be deposited in the Nebraska Brand Inspection and Theft Prevention Fund. When the estray is taken up outside the brand inspection area or brand inspection service area and ownership cannot be determined by the county board, the county board shall then order payment of the balance of the sale proceeds less expenses, to the permanent school fund. If the brand committee or the county board determines

ownership of an estray sold in accordance with this section by means of evidence of ownership other than the owner's recorded Nebraska brand, an amount not to exceed the actual investigative costs or expenses may be deducted from the proceeds of the sale. Any person who violates this section is guilty of a Class II misdemeanor. The definitions found in sections 54-172 to 54-190 apply to this section.

Source: R.S.1866, p. 154; R.S.1913, § 123; C.S.1922, § 131; C.S.1929, § 54-415; R.S.1943, § 54-415; Laws 1965, c. 333, § 1, p. 953; Laws 1967, c. 344, § 1, p. 920; Laws 1977, LB 39, § 19; Laws 1979, LB 564, § 19; Laws 1980, LB 797, § 23; Laws 1983, LB 536, § 5; Laws 1999, LB 778, § 61; Laws 2014, LB768, § 10.

ARTICLE 6 DOGS AND CATS

(a) DOGS

Section
54-603. Dogs; license tax; amount; service animal; license; county, city, or village; collect fee; disposition.

(c) COMMERCIAL DOG AND CAT OPERATOR INSPECTION ACT

- 54-625. Act, how cited.
 54-626. Terms, defined.
 54-627. License requirements; fees; premises available for inspection.
 54-628. Inspection program; department; powers; reinspection fee; prohibited acts; penalty.
 54-628.01. Director; stop-movement order; issuance; contents; hearing; department; powers; costs; reinspection; hearing.
 54-628.02. Violation of act, rule or regulation, or order of director; proceedings authorized.
 54-630. Application; denial; grounds; appeal.
 54-632. Notice or order; service requirements; hearing; appeal.
 54-633. Enforcement powers; administrative fine.
 54-633.01. Special investigator; powers; referral to another law enforcement officer.
 54-635. Commercial Dog and Cat Operator Inspection Program Cash Fund; created; use; investment.
 54-637. Information on spaying and neutering; requirements.
 54-640. Commercial dog or cat breeder; duties.
 54-641. Licensees; primary enclosures; requirements.
 54-641.01. Commercial dog breeder; dogs; opportunity for exercise.
 54-641.02. Commercial dog breeder; veterinary care; review of health records; duties of breeder.
 54-641.03. Breeding dog; microchip; identification.
 54-642. Department; submit report of costs and revenue.

(d) DOG AND CAT PURCHASE PROTECTION ACT

- 54-645. Terms, defined.
 54-646. Seller; written disclosure statement; contents; receipt; notice of purchaser's rights and responsibilities; health certificate; retention of records.

(a) DOGS

54-603 Dogs; license tax; amount; service animal; license; county, city, or village; collect fee; disposition.

(1) Any county, city, or village shall have authority by ordinance or resolution to impose a license tax, in an amount which shall be determined by the appropriate governing body, on the owner or harbinger of any dog or dogs, to be

paid under such regulations as shall be provided by such ordinance or resolutions.

(2) Every service animal shall be licensed as required by local ordinances or resolutions, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of a license tax as prescribed by local ordinances or resolutions.

(3) Any county, city, or village that imposes a license tax on the owner or harbinger of any cat or cats or any dog or dogs under this section shall, in addition to the license tax imposed by the licensing jurisdiction, collect from the licensee a fee of one dollar and twenty-five cents. The person designated by the licensing jurisdiction to collect and administer the license tax shall act as agent for the State of Nebraska in the collection of the fee. From each fee of one dollar and twenty-five cents collected, such person shall retain three cents and remit the balance to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. If the person collecting the fee is the licensing jurisdiction, the three cents shall be credited to the licensing jurisdiction's general fund. If the person collecting the fee is a private contractor, the three cents shall be credited to an account of the private contractor. The remittance to the State Treasurer shall be made at least annually at the conclusion of the licensing jurisdiction's fiscal year, except that any licensing jurisdiction or private contractor that collects fifty dollars or less of such fees during the fiscal year may remit the fees when the cumulative amount of fees collected reaches fifty dollars.

Source: Laws 1877, § 3, p. 156; R.S.1913, § 174; C.S.1922, § 171; C.S. 1929, § 54-603; R.S.1943, § 54-603; Laws 1976, LB 515, § 2; Laws 1997, LB 814, § 7; Laws 2008, LB806, § 13; Laws 2010, LB910, § 3; Laws 2015, LB360, § 12.

Cross References

For other provisions authorizing municipalities to impose license tax on dogs, see sections 14-102, 15-220, 16-206, and 17-526.

(c) COMMERCIAL DOG AND CAT OPERATOR INSPECTION ACT

54-625 Act, how cited.

Sections 54-625 to 54-643 shall be known and may be cited as the Commercial Dog and Cat Operator Inspection Act.

Source: Laws 2000, LB 825, § 1; Laws 2003, LB 274, § 1; Laws 2006, LB 856, § 13; Laws 2007, LB12, § 1; Laws 2009, LB241, § 1; Laws 2012, LB427, § 1; Laws 2015, LB360, § 13.

54-626 Terms, defined.

For purposes of the Commercial Dog and Cat Operator Inspection Act:

(1) Animal control facility means a facility operated by or under contract with the state or any political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals;

(2) Animal rescue means a person or group of persons who hold themselves out as an animal rescue, accept or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats;

(3) Animal shelter means a facility used to house or contain dogs or cats and owned, operated, or maintained by an incorporated humane society, an animal welfare society, a society for the prevention of cruelty to animals, or another nonprofit organization devoted to the welfare, protection, and humane treatment of such animals;

(4) Boarding kennel means a facility which is primarily used to house or contain dogs or cats owned by persons other than the operator of such facility. The primary function of a boarding kennel is to temporarily harbor dogs or cats when the owner of the dogs or cats is unable to do so or to provide training, grooming, or other nonveterinary service for consideration before returning the dogs or cats to the owner. A facility which provides such training, grooming, or other nonveterinary service is not a boarding kennel for the purposes of the act unless dogs or cats owned by persons other than the operator of such facility are housed at such facility overnight. Veterinary clinics, animal control facilities, animal rescues, and nonprofit animal shelters are not boarding kennels for the purposes of the act;

(5) Breeding dog means any sexually intact male or female dog six months of age or older owned or harbored by a commercial dog breeder;

(6) Cat means any animal which is wholly or in part of the species *Felis domesticus*;

(7) Commercial cat breeder means a person engaged in the business of breeding cats:

(a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more cats in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more cats, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose cats produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases cats for later retail sale or brokered trading;

(8) Commercial dog breeder means a person engaged in the business of breeding dogs:

(a) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer thirty-one or more dogs in a twelve-month period beginning on April 1 of each year;

(b) Who owns or harbors four or more dogs, intended for breeding, in a twelve-month period beginning on April 1 of each year;

(c) Whose dogs produce a total of four or more litters within a twelve-month period beginning on April 1 of each year; or

(d) Who knowingly sells, exchanges, or leases dogs for later retail sale or brokered trading;

(9) Dealer means any person who is not a commercial dog or cat breeder or a pet shop but is engaged in the business of buying for resale or selling or exchanging dogs or cats as a principal or agent or who claims to be so engaged. A person who purchases, sells, exchanges, or leases thirty or fewer dogs or cats in a twelve-month period is not a dealer;

(10) Department means the Bureau of Animal Industry of the Department of Agriculture with the State Veterinarian in charge, subordinate only to the director;

(11) Director means the Director of Agriculture or his or her designated employee;

(12) Dog means any animal which is wholly or in part of the species *Canis familiaris*;

(13) Foster home means any person who provides temporary housing for twenty or fewer dogs or cats that are six months of age or older in any twelve-month period and is affiliated with a person operating as an animal rescue that uses foster homes as its primary housing of dogs or cats. To be considered a foster home, a person shall not participate in the acquisition of the dogs or cats for which temporary care is provided. Any foster home which houses more than twenty dogs or cats that are six months of age or older in any twelve-month period or who participates in the acquisition of dogs or cats shall be licensed as an animal rescue;

(14) Harbor means:

(a) Providing shelter or housing for a dog or cat regulated under the act; or

(b) Maintaining the care, supervision, or control of a dog or cat regulated under the act;

(15) Housing facility means any room, building, or areas used to contain a primary enclosure;

(16) Inspector means any person who is employed by the department and who is authorized to perform inspections pursuant to the act;

(17) Licensee means a person who has qualified for and received a license from the department pursuant to the act;

(18) Normal business hours means daily between 7 a.m. and 7 p.m. unless an applicant, a licensee, or any other person the department has reasonable cause to believe is required by the act to be licensed provides in writing to the department a description of his or her own normal business hours which reasonably allows the department to make inspections;

(19) Operator means a person performing the activities of an animal control facility, an animal rescue, an animal shelter, a boarding kennel, a commercial cat breeder, a commercial dog breeder, a dealer, or a pet shop;

(20) Pet animal means an animal kept as a household pet for the purpose of companionship, which includes, but is not limited to, dogs, cats, birds, fish, rabbits, rodents, amphibians, and reptiles;

(21) Pet shop means a retail establishment which sells pet animals and related supplies;

(22) Premises means all public or private buildings, vehicles, equipment, containers, kennels, pens, and cages used by an operator and the public or private ground upon which an operator's facility is located if such buildings, vehicles, equipment, containers, kennels, pens, cages, or ground are used by the owner or operator in the usual course of business;

(23) Primary enclosure means any structure used to immediately restrict a dog or cat to a limited amount of space, such as a room, pen, cage, or compartment;

(24) Secretary of Agriculture means the Secretary of Agriculture of the United States Department of Agriculture;

(25) Significant threat to the health or safety of dogs or cats means:

(a) Not providing shelter or protection from extreme weather resulting in life-threatening conditions predisposing to hyperthermia or hypothermia in dogs or cats that are not acclimated to the temperature;

(b) Acute injuries involving potentially life-threatening medical emergencies in which the owner refuses to seek immediate veterinary care;

(c) Not providing food or water resulting in conditions of potential starvation or severe dehydration;

(d) Egregious human abuse such as trauma from beating, torturing, mutilating, burning, or scalding; or

(e) Failing to maintain sanitation resulting in egregious situations where a dog or cat cannot avoid walking, lying, or standing in feces;

(26) Stop-movement order means a directive preventing the movement of any dog or cat onto or from the premises; and

(27) Unaltered means any male or female dog or cat which has not been neutered or spayed or otherwise rendered incapable of reproduction.

Source: Laws 2000, LB 825, § 2; Laws 2003, LB 233, § 1; Laws 2003, LB 274, § 2; Laws 2004, LB 1002, § 1; Laws 2009, LB241, § 2; Laws 2010, LB910, § 5; Laws 2012, LB427, § 2; Laws 2015, LB360, § 14.

54-627 License requirements; fees; premises available for inspection.

(1) A person shall not operate as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop unless the person obtains the appropriate license. A pet shop shall only be subject to the Commercial Dog and Cat Operator Inspection Act and the rules and regulations adopted and promulgated pursuant thereto in any area or areas of the establishment used for the keeping and selling of pet animals. If a facility listed in this subsection is not located at the owner's residence, the name and address of the owner shall be posted on the premises.

(2) An applicant for a license shall submit an application for the appropriate license to the department, on a form prescribed by the department, together with a one-time license fee of one hundred twenty-five dollars. Such fee is nonreturnable. Any license issued on or before November 30, 2015, shall remain valid after expiration unless it lapses pursuant to this section, is revoked pursuant to section 54-631, or is voluntarily surrendered. Upon receipt of an application and the license fee and upon completion of a qualifying inspection, the appropriate license may be issued by the department. The department may enter the premises of any applicant for a license to determine if the applicant meets the requirements for licensure under the act. If an applicant does not at the time of inspection harbor any dogs or cats, the inspection shall be of the applicant's records and the planned housing facilities. Such license shall not be transferable to another person or location and shall lapse automatically upon a change of ownership or location.

(3)(a) In addition to the license fee required in subsection (2) of this section, an annual fee shall also be charged. Except as otherwise provided in this

subsection, the annual fee shall be determined according to the following fee schedule based upon the daily average number of dogs or cats harbored by the licensee over the previous twelve-month period:

- (i) Ten or fewer dogs or cats, one hundred seventy-five dollars;
 - (ii) Eleven to fifty dogs or cats, two hundred twenty-five dollars;
 - (iii) Fifty-one to one hundred dogs or cats, two hundred seventy-five dollars;
 - (iv) One hundred one to one hundred fifty dogs or cats, three hundred twenty-five dollars;
 - (v) One hundred fifty-one to two hundred dogs or cats, three hundred seventy-five dollars;
 - (vi) Two hundred one to two hundred fifty dogs or cats, four hundred twenty-five dollars;
 - (vii) Two hundred fifty-one to three hundred dogs or cats, four hundred seventy-five dollars;
 - (viii) Three hundred one to three hundred fifty dogs or cats, five hundred twenty-five dollars;
 - (ix) Three hundred fifty-one to four hundred dogs or cats, five hundred seventy-five dollars;
 - (x) Four hundred one to four hundred fifty dogs or cats, six hundred twenty-five dollars;
 - (xi) Four hundred fifty-one to five hundred dogs or cats, six hundred seventy-five dollars; and
 - (xii) More than five hundred dogs or cats, two thousand one hundred dollars.
- (b) If a person operates with more than one type of license at the same location, the person shall pay only one annual fee based on the primary licensed activity occurring at that location as determined by the number of dogs or cats affected by the licensed activity.
- (c) The annual fee for a licensee that does not own or harbor dogs or cats shall be one hundred fifty dollars.
- (d) The annual fee for an animal rescue shall be one hundred fifty dollars.
- (e) The annual fee for a commercial dog or cat breeder shall be determined according to the fee schedule set forth in subdivision (a) of this subsection based upon the total number of breeding dogs or cats owned or harbored by the commercial breeder over the previous twelve-month period.
- (f) In addition to the fee as prescribed in the fee schedule set forth in subdivision (a) of this subsection, the annual fee for a commercial dog or cat breeder, pet shop, dealer, or boarding kennel shall include a fee of two dollars times the daily average number of dogs or cats owned or harbored by the licensee over the previous twelve-month period numbering more than ten dogs or cats subject to subdivision (g) of this subsection.
- (g) The fees charged under subdivision (a) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but the maximum fee that may be charged shall not result in a fee for any license category that exceeds the annual fee set forth in subdivision (a) of this subsection by more than one hundred dollars. The fee charged under subdivision (f) of this subsection may be increased or decreased by rule and regulation as adopted and promulgated by the department, but such fee shall

not exceed three dollars times the number of dogs or cats harbored by the licensee over the previous twelve-month period numbering more than ten dogs or cats.

(4) A commercial dog or cat breeder, dealer, boarding kennel, or pet shop shall pay the annual fee to the department on or before April 1 of each year. An animal control facility, animal rescue, or animal shelter shall pay the annual fee to the department on or before October 1 of each year. Failure to pay the annual fee by the due date shall result in a late fee equal to twenty percent of the annual fee due and payable each month, not to exceed one hundred percent of such fee, in addition to the annual fee. The purpose of the late fee is to pay for the administrative costs associated with the collection of fees under this section. The assessment of the late fee shall not prohibit the director from taking any other action as provided in the act.

(5) An applicant, a licensee, or a person the department has reason to believe is an operator and required to obtain a license under this section shall make any applicable premises available for inspection pursuant to section 54-628 during normal business hours.

(6) The state or any political subdivision of the state which contracts out its animal control duties to a facility not operated by the state or any political subdivision of the state may be exempted from the licensing requirements of this section if such facility is licensed as an animal control facility, animal rescue, or animal shelter for the full term of the contract with the state or its political subdivision.

(7) Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund.

Source: Laws 2000, LB 825, § 3; Laws 2003, LB 233, § 2; Laws 2003, LB 274, § 3; Laws 2004, LB 1002, § 2; Laws 2006, LB 856, § 14; Laws 2007, LB12, § 2; Laws 2009, LB241, § 3; Laws 2010, LB910, § 6; Laws 2012, LB427, § 3; Laws 2015, LB360, § 15.

54-628 Inspection program; department; powers; reinspection fee; prohibited acts; penalty.

(1) The department shall inspect all licensees at least once in a twenty-four-month period to determine whether the licensee is in compliance with the Commercial Dog and Cat Operator Inspection Act.

(2) Any additional inspector or other field personnel employed by the department to carry out inspections pursuant to the act that are funded through General Fund appropriations to the department shall be available for temporary reassignment as needed to other activities and functions of the department in the event of a livestock disease emergency or any other threat to livestock or public health.

(3) When an inspection produces evidence of a violation of the act or the rules and regulations of the department, a copy of a written report of the inspection and violations shown thereon, prepared by the inspector, shall be given to the applicant, licensee, or person the department has reason to believe is an operator, together with written notice to comply within the time limit established by the department and set out in such notice. If the department performs a reinspection for the purpose of determining if an operator has

complied within the time limit for compliance established pursuant to this subsection or has complied with section 54-628.01 or if the inspector must return to the operator's location because the operator was not available within a reasonable time as required by subsection (4) of this section, the applicant, licensee, or person the department has reason to believe is an operator shall pay a reinspection fee of one hundred fifty dollars together with the mileage of the inspector at the rate provided in section 81-1176. The purpose of the reinspection fee is to pay for the administrative costs associated with the additional inspection. Any fees collected pursuant to this section shall be remitted to the State Treasurer for credit to the Commercial Dog and Cat Operator Inspection Program Cash Fund. The assessment of the reinspection fee shall not prohibit the director from taking any other action as provided in the act.

(4) The department, at its discretion, may make unannounced inspections of any applicant, licensee, or person the department has reason to believe is an operator during normal business hours. An applicant, a licensee, and any person the department has reason to believe is an operator shall provide the department, in writing, and keep updated if there is any change, a telephone number where the operator can be reached during normal business hours. The applicant, licensee, or person the department has reason to believe is an operator shall provide a person over the age of nineteen to be available at the operation for the purpose of allowing the department to perform an inspection.

(5) If deemed necessary under the act or any rule or regulation adopted and promulgated pursuant to the act, the department may, for purposes of inspection, enter, without being subject to any action for trespass or damages, the premises of any applicant, licensee, or person the department has reason to believe is an operator, during normal business hours and in a reasonable manner, including all premises in or upon which dogs or cats are housed, harbored, sold, exchanged, or leased or are suspected of being housed, harbored, sold, exchanged, or leased.

(6) Pursuant to an inspection under the act, the department may:

(a) Enter and have full access to all premises where dogs or cats regulated under the act are harbored or housed or are suspected of being harbored or housed;

(b) Access all records pertaining to dogs or cats regulated under the act or suspected of pertaining to such dogs or cats and examine and copy all records pertaining to compliance with the act and the rules or regulations adopted and promulgated under the act. The department shall have authority to gather evidence, including, but not limited to, photographs;

(c) Inspect or reinspect any vehicle or carrier transporting or holding dogs or cats that is in the state to determine compliance with the act or any rules or regulations adopted and promulgated under the act;

(d) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 if any person refuses to allow the department to conduct an inspection pursuant to the act; or

(e) Issue and enforce a written stop-movement order pursuant to section 54-628.01.

(7) For purposes of this section, the private residence of any applicant, licensee, or person the department has reason to believe is an operator shall be

available for purposes of inspection only if dogs or cats are housed in a primary enclosure within the residence, including a room in such residence, and only such portion of the residence that is used as a primary enclosure shall be open to an inspection pursuant to this section.

(8) An applicant, licensee, or person the department has reason to believe is an operator shall not seek to avoid inspection by hiding dogs or cats regulated under the act in a private residence, on someone else's property, or at any other location. An applicant, licensee, or person the department has reason to believe is an operator shall provide full and accurate information to the department regarding the location of all dogs or cats harbored by the operator.

(9) Any applicant, licensee, or person the department has reason to believe is an operator who intentionally refuses to answer the door, fails to be available as provided in subsection (4) of this section, fails to comply with subsection (8) of this section, or otherwise obstructs the department's attempt to perform an inspection shall be in violation of section 54-634 and subject to an administrative fine or other proceedings as provided in section 54-633 or 54-634.

Source: Laws 2000, LB 825, § 4; Laws 2007, LB12, § 3; Laws 2009, LB241, § 5; Laws 2015, LB360, § 16.

54-628.01 Director; stop-movement order; issuance; contents; hearing; department; powers; costs; reinspection; hearing.

(1) The director may issue a stop-movement order if he or she has reasonable cause to believe that there exists (a) noncompliance with the Commercial Dog and Cat Operator Inspection Act or any rule or regulation adopted and promulgated pursuant to the act, including, but not limited to, unreasonable sanitation or housing conditions, failure to comply with standards for handling, care, treatment, or transportation for dogs or cats, operating without a license, or interfering with the department in the performance of its duties, or (b) any condition that, without medical attention, provision of shelter, facility maintenance or improvement, relocation of animals, or other management intervention, poses a significant threat to the health or safety of the dogs or cats owned or harbored by a violator.

(2) Such stop-movement order may require the violator to maintain the dogs or cats subject to the order at the existing location or other department-approved premises until such time as the director has issued a written release from the stop-movement order. The stop-movement order shall clearly advise the violator that he or she may request in writing a hearing before the director pursuant to section 54-632. The order issued pursuant to this section shall be final unless modified or rescinded by the director pursuant to section 54-632 at a hearing requested under this subsection.

(3) Pursuant to the stop-movement order, the department shall have the authority to enter the premises to inspect and determine if the dogs or cats subject to the order or the facilities used to house or transport such dogs or cats are kept and maintained in compliance with the requirements of the act and the rules and regulations adopted and promulgated pursuant to the act or if any management intervention imposed by the stop-movement order is being implemented to mitigate conditions posing a significant threat to the health or safety of dogs or cats harbored or owned by a violator. The department shall not be liable for any costs incurred by the violator or any personnel of the violator due to such departmental action or in enforcing the stop-movement order. The

department shall be reimbursed by the violator for the actual costs incurred by the department in issuing and enforcing any stop-movement order.

(4) A stop-movement order shall include:

(a) A description of the nature of the violations of the act or any rule or regulation adopted and promulgated pursuant to the act;

(b) If applicable, a description of conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator;

(c) The action necessary to bring the violator into compliance with the act and the rules and regulations adopted and promulgated pursuant to the act or, if applicable, to mitigate conditions posing a significant threat to the health and safety of the dogs or cats harbored or owned by the violator;

(d) Notice that if violations of the act or any rule or regulation or any conditions that pose a significant threat to the health or safety of the dogs or cats owned or harbored by the violator persist, the department may refer the matter to appropriate law enforcement for investigation and potential prosecution pursuant to Chapter 28, article 10; and

(e) The name, address, and telephone number of the violator who owns or harbors the dogs or cats subject to the order.

(5) Before receipt of a written release, the person to whom the stop-movement order was issued shall:

(a) Provide the department with an inventory of all dogs or cats on the premises at the time of the issuance of the order;

(b) Provide the department with the identification tag number, the tattoo number, the microchip number, or any other approved method of identification for each individual dog or cat;

(c) Notify the department within forty-eight hours of the death or euthanasia of any dog or cat subject to the order. Such notification shall include the dog's or cat's individual identification tag number, tattoo number, microchip number, or other approved identification;

(d) Notify the department within forty-eight hours of any dog or cat giving birth after the issuance of the order, including the size of the litter; and

(e) Maintain on the premises any dog or cat subject to the order, except that a dog or cat under one year of age under contract to an individual prior to the issuance of the order may be delivered to the individual pursuant to the contractual obligation. The violator shall provide to the department information identifying the dog or cat and the name, address, and telephone number of the individual purchasing the dog or cat. The department may contact the purchaser to ascertain the date of the purchase agreement to ensure that the dog or cat was sold prior to the stop-movement order and to determine that he or she did purchase such dog or cat. No additional dogs or cats shall be transferred onto the premises without written approval of the department.

(6) The department shall reinspect the premises to determine compliance within ten business days after the initial inspection that resulted in the stop-movement order. At the time of reinspection pursuant to this subsection, if conditions that pose a significant threat to the health or safety of the dogs or cats harbored or owned by the violator or noncompliant conditions continue to exist, further reinspections shall be at the discretion of the department. The

violator may request an immediate hearing with the director pursuant to any findings under this subsection.

Source: Laws 2009, LB241, § 6; Laws 2015, LB360, § 17.

54-628.02 Violation of act, rule or regulation, or order of director; proceedings authorized.

Whenever the director has reason to believe that any person has violated any provision of the Commercial Dog and Cat Operator Inspection Act, any rule or regulation adopted and promulgated pursuant to the act, or any order of the director, the director may issue a notice of hearing as provided in section 54-632 requiring the person to appear before the director to (1) show cause why an order should not be entered requiring such person to cease and desist from the violation charged, (2) determine whether an administrative fine should be imposed or levied against the person pursuant to subsection (2) of section 54-633, or (3) determine whether the person fails to qualify for a license pursuant to section 54-630. Proceedings initiated pursuant to this section shall not preclude the department from pursuing other administrative, civil, or criminal actions according to law.

Source: Laws 2015, LB360, § 18.

54-630 Application; denial; grounds; appeal.

(1) Before the department approves an application for a license, an inspector of the department shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Commercial Dog and Cat Operator Inspection Act. Except as provided in subsection (2) of this section, an applicant who qualifies shall be issued a license.

(2) The department may deny an application for a license as a commercial dog or cat breeder, a dealer, a boarding kennel, an animal control facility, an animal shelter, an animal rescue, or a pet shop upon a finding that the applicant is unsuited to perform the obligations of a licensee. The applicant shall be determined unsuited to perform the obligations of a licensee if the department finds that the applicant has deliberately misrepresented or concealed any information provided on or with the application or any other information provided to the department under this section or that within the previous five years the applicant:

(a) Has been convicted of any law regarding the disposition or treatment of dogs or cats in any jurisdiction; or

(b) Has operated a breeder facility under a license or permit issued by any jurisdiction that has been revoked, suspended, or otherwise subject to a disciplinary proceeding brought by the licensing authority in that jurisdiction if such proceeding resulted in the applicant having voluntarily surrendered a license or permit to avoid disciplinary sanctions.

(3) In addition to the application, the department may require the applicant to provide additional documentation pertinent to the department's determination of the applicant's suitability to perform the duties of a licensee under the act.

(4) An applicant who is denied a license under this section shall be afforded the opportunity for a hearing before the director or the director's designee to present evidence that the applicant is qualified to hold a license pursuant to the

act and the rules and regulations adopted and promulgated by the department and should be issued a license. All such hearings shall be in accordance with the Administrative Procedure Act.

Source: Laws 2000, LB 825, § 6; Laws 2007, LB12, § 5; Laws 2012, LB427, § 4; Laws 2015, LB360, § 19.

Cross References

Administrative Procedure Act, see section 84-920.

54-632 Notice or order; service requirements; hearing; appeal.

(1) Any notice or order provided for in the Commercial Dog and Cat Operator Inspection Act shall be properly served when it is personally served on the applicant, licensee, or violator or on the person authorized by the applicant or licensee to receive notices and orders of the department or when it is sent by certified or registered mail, return receipt requested, to the last-known address of the applicant, licensee, or violator or the person authorized to receive such notices and orders. A copy of the notice and the order shall be filed in the records of the department.

(2) A notice to comply with the act or the rules and regulations adopted and promulgated pursuant to the act shall set forth the acts or omissions with which the applicant, licensee, or violator is charged.

(3) A notice of the right to a hearing shall set forth the time and place of the hearing except as otherwise provided in subsection (4) of this section and section 54-631. A notice of the right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section. A notice of the licensee's right to a hearing shall include notice to the licensee that the license may be subject to sanctions as provided in section 54-631.

(4) A request for a hearing under subsection (2) of section 54-628.01 shall request that the director set forth the time and place of the hearing. The director shall consider the interests of the violator in establishing the time and place of the hearing. Within three business days after receipt by the director of the hearing request, the director shall set forth the time and place of the hearing on the stop-movement order. A notice of the violator's right to such hearing shall include notice that such right to a hearing may be waived pursuant to subsection (6) of this section.

(5) The hearings provided for in the act shall be conducted by the director at the time and place he or she designates. The director shall make a final finding based on the complete hearing record and issue an order. If the director has suspended a license pursuant to subsection (4) of section 54-631, the director shall sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under section 54-628.01, the director may sustain, modify, or rescind the order after the hearing. All hearings shall be in accordance with the Administrative Procedure Act.

(6) An applicant, a licensee, or a violator waives the right to a hearing if such applicant, licensee, or violator does not attend the hearing at the time and place set forth in the notice described in subsection (3) or (4) of this section, without requesting that the director, at least two days before the designated time, change the time and place for the hearing, except that before an order of the director becomes final, the director may designate a different time and place for the hearing if the applicant, licensee, or violator shows the director that the

applicant, licensee, or violator had a justifiable reason for not attending the hearing and not timely requesting a change of the time and place for such hearing. If the applicant, licensee, or violator waives the right to a hearing, the director shall make a final finding based upon the available information and issue an order. If the director has suspended a license pursuant to subsection (4) of section 54-631, the director may sustain, modify, or rescind the order after the hearing. If the department has issued a stop-movement order under section 54-628.01, the director may sustain, modify, or rescind the order after the hearing.

(7) Any person aggrieved by the finding of the director has ten days after the entry of the director's order to request a new hearing if such person can show that a mistake of fact has been made which affected the director's determination. Any order of the director becomes final upon the expiration of ten days after its entry if no request for a new hearing is made.

Source: Laws 2000, LB 825, § 8; Laws 2007, LB12, § 7; Laws 2009, LB241, § 8; Laws 2015, LB360, § 20.

Cross References

Administrative Procedure Act, see section 84-920.

54-633 Enforcement powers; administrative fine.

(1) In order to ensure compliance with the Commercial Dog and Cat Operator Inspection Act, the department may apply for a restraining order, temporary or permanent injunction, or mandatory injunction against any person violating or threatening to violate the act, the rules and regulations, or any order of the director issued pursuant thereto. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

The county attorney of the county in which such violations are occurring or about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under this section to be instituted and pursued without delay.

(2) The department may impose an administrative fine of not more than five thousand dollars for any violation of the act or the rules and regulations adopted and promulgated under the act. Each violation of the act or such rules and regulations shall constitute a separate offense for purposes of this subsection.

Source: Laws 2000, LB 825, § 9; Laws 2006, LB 856, § 15; Laws 2007, LB12, § 8; Laws 2015, LB360, § 21.

54-633.01 Special investigator; powers; referral to another law enforcement officer.

If the director has reason to believe that any alleged violation of the Commercial Dog and Cat Operator Inspection Act, any alleged violation of the rules and regulations of the department, any alleged violation of an order of the director, or any other existing condition posing a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or a licensee constitutes cruel neglect, abandonment, or cruel mistreatment pursuant to

section 28-1009, the director may direct a special investigator employed by the department as authorized pursuant to section 81-201 to exercise the authorities of a law enforcement officer pursuant to sections 28-1011 and 28-1012 with respect to the dogs or cats or may request any other law enforcement officer as defined in section 28-1008 to inspect, care for, or impound the dogs or cats pursuant to sections 28-1011 and 28-1012. Any assignment of a special investigator by the director or referral to another law enforcement officer pursuant to this section shall be in cooperation and coordination with appropriate law enforcement agencies, political subdivisions, animal shelters, humane societies, and other appropriate entities, public or private, to provide for the care, shelter, and disposition of animals impounded pursuant to this section.

Source: Laws 2015, LB360, § 22.

54-635 Commercial Dog and Cat Operator Inspection Program Cash Fund; created; use; investment.

The Commercial Dog and Cat Operator Inspection Program Cash Fund is created and shall consist of money appropriated by the Legislature, gifts, grants, costs, fees, or charges from any source, including federal, state, public, and private sources. The money shall be used to carry out the Commercial Dog and Cat Operator Inspection Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2000, LB 825, § 11; Laws 2016, LB909, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-637 Information on spaying and neutering; requirements.

(1) Every dealer, commercial dog or cat breeder, animal shelter, animal rescue, animal control facility, or pet shop or any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall deliver to the ultimate consumer of each dog or cat at the time of sale, written material, in a form determined by such seller, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(2) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council or the Nebraska Humane Society shall satisfy the requirements of subsection (1) of this section.

Source: Laws 2003, LB 274, § 4; Laws 2010, LB910, § 8; Laws 2012, LB427, § 5.

54-640 Commercial dog or cat breeder; duties.

A commercial dog or cat breeder shall:

(1) Maintain housing facilities and primary enclosures in a sanitary condition;

(2) Enable all dogs and cats to remain dry and clean;

(3) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs and cats;

(4) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time;

(5) Provide dogs and cats with easy and convenient access to adequate amounts of clean food and water;

(6) Provide dogs with adequate socialization. For purposes of this subdivision, adequate socialization means physical contact with other dogs and with human beings, other than being fed;

(7) Assure that a handler's hands are washed before and after handling each infectious or contagious cat;

(8) Maintain a written veterinary care plan developed in conjunction with an attending veterinarian; and

(9) Provide veterinary care without delay when necessary.

Source: Laws 2003, LB 274, § 7; Laws 2009, LB241, § 10; Laws 2012, LB427, § 6.

54-641 Licensees; primary enclosures; requirements.

The primary enclosures of all licensees shall meet the following requirements:

(1) A primary enclosure shall provide adequate space appropriate to the age, size, weight, and breed of each dog or cat. For purposes of this subdivision, adequate space means sufficient room to allow each dog or cat to turn around without touching another animal, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner without the head of such animal touching the top of the enclosure, which shall be at least six inches above the head of the tallest animal when the animal is standing;

(2) A primary enclosure shall have solid surface flooring or a flooring material that protects the dogs' and cats' feet and legs from injury and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor;

(3) If a primary enclosure has a suspended floor constructed of metal strands, the strands shall either be greater than one-eighth of an inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass; and

(4) The suspended floor of any primary enclosure shall be strong enough so that the floor does not sag or bend between the structural supports.

Source: Laws 2003, LB 274, § 8; Laws 2012, LB427, § 7.

54-641.01 Commercial dog breeder; dogs; opportunity for exercise.

(1) A commercial dog breeder shall provide dogs with the opportunity for exercise as follows:

(a) A primary enclosure shall have an entry that allows each dog unfettered access to an exercise area that is at least three times the size of the requirements for a primary enclosure. The entry may be closed during cleaning, under direction of a licensed veterinarian, or in the case of inclement weather. The exercise area shall have solid surface flooring or a flooring material that if of mesh or slatted construction does not allow the dog's feet to pass through any openings in the floor. Any exercise area suspended floor constructed of metal strands shall be required to have strands that are greater than one-eighth of an

inch in diameter (nine gauge) or coated with a material such as plastic or fiberglass. All suspended flooring shall be strong enough so as not to sag or bend between any structural supports and be of a surface that is easily cleaned and disinfected. The exercise area shall have protection available from wind, rain, and snow if access to the primary enclosure is unavailable; and

(b) Any dog not housed in a primary enclosure that meets the exercise area requirements of subdivision (a) of this subsection shall be provided with the opportunity for exercise according to a plan approved by the attending veterinarian, in writing. The opportunity for exercise shall be accomplished by:

(i) Providing access to a run or open area at a frequency and duration prescribed by the attending veterinarian; or

(ii) Removal of the dogs from the primary enclosure at least twice daily to be walked, allowed to move about freely in an open area, or placed in an exercise area that meets the requirements of subdivision (a) of this subsection.

(2) Subsection (1) of this section shall not apply to:

(a) Any dog that is less than six months of age;

(b) The primary enclosure of a nursing facility that houses any female dog that is due to give birth within the following two weeks or a nursing dog and her puppies;

(c) Any dog that is injured or displays any clinical signs of disease. In such case, any injury or clinical signs of disease shall be noted in the dog's health records and the dog shall be returned to exercise upon recovery from such injury or disease; or

(d) Any dog that is excluded from the exercise requirements of subsection (1) of this section pursuant to a written directive of a licensed veterinarian.

(3) Any primary enclosure newly constructed after October 1, 2012, shall comply with subdivision (1)(a) of this section. A primary enclosure in existence on October 1, 2012, shall not be required to comply with subdivision (1)(a) of this section for the life of such facility.

Source: Laws 2012, LB427, § 8.

54-641.02 Commercial dog breeder; veterinary care; review of health records; duties of breeder.

(1) A commercial dog breeder shall ensure that each dog under his or her care, supervision, or control receives adequate veterinary care. A commercial dog breeder's written veterinary care plan shall provide for, in addition to requirements prescribed by rule and regulation of the department:

(a) The maintenance of individual health records for each dog bought, raised, or otherwise obtained, held, kept, maintained, sold, donated, or otherwise disposed of, including by death or euthanasia, except that litter health records may be kept on litters when litter mates are treated with the same medication or procedure;

(b) Establishment of a program of disease control and prevention, pest and parasite control, before and after procedure care, nutrition, and euthanasia supervised by the attending veterinarian. Such program shall provide for regularly scheduled onsite visits to the facility by the veterinarian and shall be annually reviewed and updated by the veterinarian at the time of an onsite visit that includes the veterinarian's walk-through of the facility and observation by

the veterinarian of dogs under the commercial dog breeder's care, supervision, or control; and

(c) A wellness examination by a licensed veterinarian of each breeding dog at least once every three years, to include a basic physical and dental examination and corresponding notations entered into the dog's health records. Such examination shall not require laboratory analysis unless directed by the veterinarian.

(2) During regularly scheduled inspections of a commercial dog breeder's facility conducted by the department, the health records of a random sample of at least five percent of the breeding dogs shall be reviewed to verify that such records correspond to the dog's permanent identification and verify that the health records are properly maintained.

(3) For each dog under the commercial dog breeder's care, supervision, or control, the breeder shall:

(a) Ensure that all breeding dogs receive regular grooming. Coat matting shall not exceed ten percent, and nails shall be trimmed short enough to ensure the comfort of the dog;

(b) Contact a licensed veterinarian without delay after an occurrence of a serious or life-threatening injury or medical condition of such dog. The dog shall be treated as prescribed by the veterinarian;

(c) Ensure that all surgical births or other surgical procedures shall be performed by a licensed veterinarian using anesthesia. Commercial dog breeders may remove dew claws and perform tail docking under sterile conditions within the first seven days of the dog's life. Wounds shall be treated and monitored by the breeder; and

(d) Ensure that, if euthanasia is necessary, it shall be performed by a licensed veterinarian in accordance with recommendations for the humane euthanization of dogs as published by the American Veterinary Medical Association.

Source: Laws 2012, LB427, § 9.

54-641.03 Breeding dog; microchip; identification.

Each breeding dog shall be identified by the implantation of a microchip, and each dog's health records shall accurately record the appropriate identification. The department may by rule or regulation require identification of any dog by tag, tattoo, or other method if the microchip system is determined to be ineffective. A commercial dog breeder licensed prior to October 1, 2012, who utilizes a method or methods of identification other than microchipping as authorized by rule and regulation of the department prior to October 1, 2012, may continue to utilize such method or methods.

Source: Laws 2012, LB427, § 10.

54-642 Department; submit report of costs and revenue.

On or before November 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all costs incurred in the previous fiscal year in carrying out the Commercial Dog and Cat Operator Inspection Act. The report shall identify costs incurred by the department to administer the act and shall detail costs incurred by primary activity. The department shall also provide a breakdown by category of all revenue credited to the Commercial Dog and Cat Operator Inspection Program

Cash Fund in the previous fiscal year. The Agriculture Committee and Appropriations Committee of the Legislature shall review the report to ascertain program activity levels and to determine funding requirements of the program.

Source: Laws 2006, LB 856, § 16; Laws 2012, LB782, § 82.

(d) DOG AND CAT PURCHASE PROTECTION ACT

54-645 Terms, defined.

For purposes of the Dog and Cat Purchase Protection Act:

(1) Casual breeder means any person, other than a commercial dog or cat breeder as such terms are defined in section 54-626, who offers for sale, sells, trades, or receives consideration for one or more pet animals from a litter produced by a female dog or cat owned by such casual breeder;

(2) Clinical symptom means indication of an illness or dysfunction that is apparent to a veterinarian based on the veterinarian's observation, examination, or testing of an animal or on a review of the animal's medical records;

(3) Health certificate means the official small animal certificate of veterinary inspection of the Bureau of Animal Industry of the Department of Agriculture;

(4) Pet animal means a dog, wholly or in part of the species *Canis familiaris*, or a cat, wholly or in part of the species *Felis domesticus*, that is under fifteen months of age;

(5) Purchaser means the final owner of a pet animal purchased from a seller. Purchaser does not include a person who purchases a pet animal for resale;

(6) Seller means a casual breeder or any commercial establishment, including a commercial dog or cat breeder, dealer, or pet shop as such terms are defined in section 54-626, that engages in a business of selling pet animals to a purchaser. A seller does not include an animal control facility, animal rescue, or animal shelter as defined in section 54-626 or any animal adoption activity that an animal control facility, animal rescue, or animal shelter conducts offsite at any pet store or other commercial establishment; and

(7)(a) Serious health problem means a congenital or hereditary defect or contagious disease that causes severe illness or death of the pet animal.

(b) Serious health problem does not include (i) parvovirus if the diagnosis of parvovirus is made after the seven-business-day requirement in subsection (1) of section 54-647 or (ii) any other contagious disease that causes severe illness or death after ten calendar days after delivery of the pet animal to the purchaser.

Source: Laws 2009, LB241, § 12; Laws 2010, LB910, § 10; Laws 2012, LB427, § 11.

54-646 Seller; written disclosure statement; contents; receipt; notice of purchaser's rights and responsibilities; health certificate; retention of records.

(1) A seller shall deliver to the purchaser at the time of sale of a pet animal a written disclosure statement containing the following information regarding the pet animal:

(a) The name, address, and license number of any commercial dog or cat breeder or dealer as such terms are defined in section 54-626 or, if applicable, the United States Department of Agriculture license number of the breeder or

any broker who has had possession of the animal prior to the seller's possession;

(b) The date of the pet animal's birth, if known, the state in which the pet animal was born, if known, and the date the seller received the pet animal;

(c) The sex and color of the pet animal, any other identifying marks apparent upon the pet animal, and the breed of the pet animal, if known, or a statement that the breed of the pet animal is unknown or the pet animal is of mixed breed;

(d) The pet animal's individual identifying tag, tattoo, microchip number, or collar number;

(e) The names and registration numbers of the sire and dam and the litter number, if applicable and if known;

(f) A record of any vaccination, worming treatment, or medication administered to the pet animal while in the possession of the seller and, if known, any such vaccination, treatment, or medication administered to the pet animal prior to the date the seller received the pet animal; and

(g) The date or dates of any examination of the pet animal by a licensed veterinarian while in the possession of the seller.

(2) The seller may include any of the following with the written disclosure statement required by subsection (1) of this section:

(a) A statement that a veterinarian examined the pet animal and, at the time of the examination, the pet animal had no apparent or clinical symptoms of a serious health problem that would adversely affect the health of the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future; and

(b) A record of any serious health problem that adversely affects the pet animal at the time of sale or that is likely to adversely affect the health of the pet animal in the future.

(3) The written disclosure statement made pursuant to this section shall be signed by the seller certifying the accuracy of the written disclosure statement and by the purchaser acknowledging receipt of the written disclosure statement. In addition to information required to be given to a purchaser under this section, at the time of sale the seller shall provide the purchaser with written notice of the existence of the purchaser's rights and responsibilities under the Dog and Cat Purchase Protection Act or a legible copy of the act.

(4) If the pet animal is sold to a purchaser who resides outside of the state or intends that the pet animal will be relocated or permanently domiciled outside of the state, the seller shall provide the purchaser with a health certificate signed by a licensed veterinarian who has examined the pet animal and is authorized to certify such certificate.

(5) The seller shall maintain a copy of any written disclosure statements made and any other records on the health, status, or disposition of each pet animal for at least one year after the date of sale to a purchaser.

Source: Laws 2009, LB241, § 13; Laws 2012, LB427, § 12.

**ARTICLE 7
PROTECTION OF HEALTH**

(a) GENERAL POWERS AND DUTIES OF DEPARTMENT OF AGRICULTURE

Section

- 54-701.03. Terms, defined.
- 54-703. Prevention of diseases; enforcement; inspections; rules and regulations.
- 54-704. Prevention of diseases; federal agents; powers.
- 54-705. Prevention of diseases; orders of department; enforcement.

(c) SCABIES

- 54-724.01. Repealed. Laws 2015, LB 91, § 1.
- 54-724.02. Repealed. Laws 2015, LB 91, § 1.

(d) GENERAL PROVISIONS

- 54-726.04. Repealed. Laws 2015, LB 91, § 1.
- 54-742. Diseased animals; duty to report; livestock disease reporting system; animal infected with bovine trichomoniasis; report required; notice to adjacent landowner or land manager; form or affidavit submitted to department; department; duties; costs.
- 54-750. Diseased animals; harboring or sale prohibited; penalties.
- 54-751. Rules and regulations; violations; penalties.
- 54-752. Violations; penalties.
- 54-753. Prevention of disease; writ of injunction available.
- 54-753.06. Transferred to section 54-7,109.

(f) IMPORT CONTROL

- 54-784.01. Act, how cited.
- 54-789. Individual identification of cattle; Department of Agriculture; powers; State Veterinarian; powers.

(i) EXOTIC ANIMAL AUCTIONS AND SWAP MEETS

- 54-7,105. Act, how cited; purpose of sections.
- 54-7,105.01. Terms, defined.
- 54-7,106. Permit; notification requirements; application; denial; grounds; prohibited acts.
- 54-7,107. Records; contents; access by department.
- 54-7,108. Prohibited transfers; certificate of veterinary inspection; duties of exotic animal auction or exchange venue organizer; requirements for certain animals.
- 54-7,109. Compliance with game laws required.
- 54-7,110. Act; enforcement; rules and regulations; penalties.

(a) GENERAL POWERS AND DUTIES OF DEPARTMENT OF AGRICULTURE

54-701.03 Terms, defined.

For purposes of sections 54-701 to 54-753.05 and 54-797 to 54-7,103:

(1) Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture in accordance with 9 C.F.R. part 161, as such regulation existed on January 1, 2013;

(2) Animal means all vertebrate members of the animal kingdom except humans or wild animals at large;

(3) Bureau of Animal Industry means the Bureau of Animal Industry of the Department of Agriculture of the State of Nebraska and includes the State Veterinarian, deputy state veterinarian, veterinary field officers, livestock inspectors, investigators, and other employees of the bureau;

(4) Dangerous disease means a disease transmissible to and among livestock which has the potential for rapid spread, serious economic impact or serious threat to livestock health, and is of major importance in the trade of livestock and livestock products;

(5) Department means the Department of Agriculture of the State of Nebraska;

(6) Director means the Director of Agriculture of the State of Nebraska or his or her designee;

(7) Domesticated cervine animal means any elk, deer, or other member of the family cervidae legally obtained from a facility which has a license, permit, or registration authorizing domesticated cervine animals which has been issued by the state where the facility is located and such animal is raised in a confined area;

(8) Exposed means being part of a herd which contains or has contained an animal infected with a disease agent which affects livestock or having had a reasonable opportunity to come in contact with an infective disease agent which affects livestock;

(9) Herd means any group of livestock maintained on common ground for any purpose or two or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of livestock without regard to health status;

(10) Livestock means cattle, swine, sheep, horses, mules, goats, domesticated cervine animals, ratite birds, and poultry;

(11) Poultry means domesticated birds that serve as a source of eggs or meat and includes, but is not limited to, chickens, turkeys, ducks, and geese;

(12) Program disease means a livestock disease for which specific legislation exists for disease control or eradication;

(13) Quarantine means restriction of (a) movement imposed by the department on an animal, group of animals, or herd of animals because of infection with, or exposure to, a disease agent which affects livestock and (b) use of equipment, facilities, land, buildings, and enclosures which are used or have been used by animals infected with, or suspected of being infected with, a disease agent which affects livestock;

(14) Ratite bird means any ostrich, emu, rhea, kiwi, or cassowary;

(15) Sale means a sale, lease, loan, trade, barter, or gift;

(16) Surveillance means the collection and testing of livestock blood, tissue, hair, body fluids, discharges, excrements, or other samples done in a herd or randomly selected livestock to determine the presence or incidence of disease in the state or area of the state and may include the observation or physical examination of an animal; and

(17) Veterinarian means an individual who is a graduate of an accredited college of veterinary medicine.

Source: Laws 1993, LB 267, § 2; Laws 1995, LB 718, § 6; Laws 1999, LB 404, § 25; Laws 1999, LB 870, § 2; Laws 2001, LB 438, § 3; Laws 2006, LB 856, § 17; Laws 2014, LB884, § 5.

54-703 Prevention of diseases; enforcement; inspections; rules and regulations.

(1) The Department of Agriculture and all inspectors and persons appointed and authorized to assist in the work of the department shall enforce the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05 and 54-797 to 54-7,103 as designated.

(2) The department and any officer, agent, employee, or appointee of the department shall have the right to enter upon the premises of any person who has, or is suspected of having, any animal thereon, including any premises where the carcass or carcasses of dead livestock may be found or where a facility for the disposal or storage of dead livestock is located, for the purpose of making any and all inspections, examinations, tests, and treatments of such animal, to inspect livestock carcass disposal practices, and to declare, carry out, and enforce any and all quarantines.

(3) The department, in consultation with the Department of Environmental Quality and the Department of Health and Human Services, may adopt and promulgate rules and regulations reflecting best management practices for the burial of carcasses of dead livestock.

(4) The Department of Agriculture may further adopt and promulgate such rules and regulations as are necessary to promptly and efficiently enforce and effectuate the general purpose and provisions of sections 54-701 to 54-753.05 and 54-797 to 54-7,103.

Source: Laws 1927, c. 12, art. I, § 3, p. 81; C.S.1929, § 54-903; R.S.1943, § 54-703; Laws 1993, LB 267, § 4; Laws 2001, LB 438, § 4; Laws 2006, LB 856, § 18; Laws 2007, LB296, § 224; Laws 2014, LB884, § 6.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-704 Prevention of diseases; federal agents; powers.

Any veterinary inspector or agent of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, who has been officially assigned by the United States Department of Agriculture for service in Nebraska may be officially authorized by the Department of Agriculture to perform and exercise such powers and duties as may be prescribed by the department and when so authorized shall have and exercise all rights and powers vested by the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05 and 54-797 to 54-7,103 in agents and representatives in the regular employ of the department.

Source: Laws 1927, c. 12, art. I, § 4, p. 81; C.S.1929, § 54-904; R.S.1943, § 54-704; Laws 1993, LB 267, § 5; Laws 2001, LB 438, § 5; Laws 2006, LB 856, § 19; Laws 2014, LB884, § 7.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-705 Prevention of diseases; orders of department; enforcement.

The Department of Agriculture or any officer, agent, employee, or appointee thereof may call upon any sheriff, deputy sheriff, or other police officer to execute the orders of the department, and the officer shall obey the orders of the department. The officers performing such duties shall receive compensation therefor as is prescribed by law for like services and shall be paid therefor by

the county. Any officer may arrest and take before the county judge of the county any person found violating any of the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753.05, and such officer shall immediately notify the county attorney of such arrest. The county attorney shall prosecute the person so offending according to law.

Source: Laws 1927, c. 12, art. I, § 5, p. 82; C.S.1929, § 54-905; R.S.1943, § 54-705; Laws 1972, LB 1032, § 261; Laws 1988, LB 1030, § 45; Laws 1993, LB 267, § 6; Laws 2001, LB 438, § 6; Laws 2006, LB 856, § 20; Laws 2014, LB884, § 8.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

(c) SCABIES

54-724.01 Repealed. Laws 2015, LB 91, § 1.

54-724.02 Repealed. Laws 2015, LB 91, § 1.

(d) GENERAL PROVISIONS

54-726.04 Repealed. Laws 2015, LB 91, § 1.

54-742 Diseased animals; duty to report; livestock disease reporting system; animal infected with bovine trichomoniasis; report required; notice to adjacent landowner or land manager; form or affidavit submitted to department; department; duties; costs.

(1) It is the duty of any person who discovers, suspects, or has reason to believe that any animal belonging to him or her or which he or she has in his or her possession or custody or which, belonging to another, may come under his or her observation is affected with any dangerous, infectious, contagious, or otherwise transmissible disease which affects livestock to immediately report such fact, belief, or suspicion to the department or to any agent, employee, or appointee thereof.

(2) The department shall work together with livestock health committees, livestock groups, diagnostic laboratories, practicing veterinarians, producers, and others who may be affected, to adopt and promulgate rules and regulations to effectuate a workable livestock disease reporting system according to the provisions of this section. The rules and regulations shall establish who shall report diseases, what diseases shall be reported, how such diseases shall be reported, to whom diseases shall be reported, the method by which diseases shall be reported, and the frequency of reports required. For disease reporting purposes, the department shall categorize livestock diseases according to relative economic or health risk factors and may provide different reporting measures for the various categories.

(3) Any person who reasonably suspects that any beef or dairy breeding bull belonging to him or her or which he or she has in his or her possession or custody is infected with bovine trichomoniasis shall not sell or transport such animal, except for consignment directly to a federally recognized slaughter establishment, unless such person causes such animal to be tested for bovine trichomoniasis. Any person who owns or has possession or custody of a beef or dairy breeding bull, or who has a beef or dairy breeding bull belonging to

another under his or her observation, for which a laboratory confirmed diagnosis of bovine trichomoniasis has been made, shall report such diagnosis to the department within five business days after receipt of the laboratory confirmation. Any such breeding bull for which a laboratory confirmation of bovine trichomoniasis has been made shall not be sold or transported except for consignment directly to a federally recognized slaughter establishment.

(4)(a) An owner or manager of any beef or dairy breeding bull for which a laboratory confirmed diagnosis of bovine trichomoniasis has been made shall notify each adjacent landowner or land manager of the diagnosis if such land is capable of maintaining livestock susceptible to bovine trichomoniasis. Such notification shall be made to each landowner or land manager within fourteen days after the diagnosis even if cattle are not currently maintained on the owner's or manager's land.

(b) The owner or manager of the cattle shall submit to the department a form or affidavit attesting to the fact that the notification required under this subsection has occurred. The form or affidavit shall be submitted to the department within fourteen days after the diagnosis and shall include the names of adjacent landowners or land managers who were notified and their contact information.

(c) If an owner or manager does not, within such fourteen-day period, submit the form or affidavit indicating that adjacent landowners or land managers have been notified as required under this subsection, the department shall notify each adjacent landowner or land manager of the diagnosis. The department shall assess the administrative costs of the department to notify the adjacent landowners or land managers against the owner or manager that failed to comply with this subsection. The department shall determine the definition of adjacent based on the disease characteristics and modes of transmission. The department shall remit any administrative costs collected under this subsection to the State Treasurer for credit to the Nebraska Agricultural Products Marketing Cash Fund.

Source: Laws 1927, c. 12, art. VIII, § 1, p. 92; C.S.1929, § 54-938; R.S.1943, § 54-742; Laws 1993, LB 267, § 7; Laws 2001, LB 438, § 7; Laws 2013, LB423, § 4.

Cross References

Definitions for sections 54-742 to 54-753.05, see section 54-701.03.

54-750 Diseased animals; harboring or sale prohibited; penalties.

It shall be unlawful for any person to knowingly harbor, sell, or otherwise dispose of any animal or any part thereof affected with an infectious, contagious, or otherwise transmissible disease except as provided by sections 54-701 to 54-753 and the rules and regulations prescribed by the Department of Agriculture thereunder. Any person so offending shall be deemed guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Source: Laws 1927, c. 12, art. VIII, § 9, p. 94; C.S.1929, § 54-946; R.S.1943, § 54-750; Laws 1977, LB 39, § 23; Laws 1993, LB 267, § 13; Laws 2006, LB 856, § 21; Laws 2014, LB884, § 9.

54-751 Rules and regulations; violations; penalties.

It shall be unlawful for any person to violate any rule or regulation prescribed and promulgated by the Department of Agriculture pursuant to authority granted by the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753, and any person so offending shall be guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Source: Laws 1927, c. 12, art. VIII, § 10, p. 94; C.S.1929, § 54-947; R.S.1943, § 54-751; Laws 1977, LB 39, § 24; Laws 2001, LB 438, § 17; Laws 2006, LB 856, § 22; Laws 2014, LB884, § 10.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-752 Violations; penalties.

Any person violating any of the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753 shall be guilty of a Class II misdemeanor for the first violation and a Class I misdemeanor for any subsequent violation.

Source: Laws 1927, c. 12, art. VIII, § 13, p. 95; C.S.1929, § 54-950; R.S.1943, § 54-752; Laws 1953, c. 184, § 8, p. 581; Laws 1977, LB 39, § 25; Laws 2001, LB 438, § 18; Laws 2006, LB 856, § 23; Laws 2014, LB884, § 11.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-753 Prevention of disease; writ of injunction available.

The penal provisions of section 54-752 shall not be exclusive, but the district courts of this state, in the exercise of their equity jurisdiction, may, by injunction, compel the observance of, and by that remedy enforce, the provisions of the Exotic Animal Auction or Exchange Venue Act and sections 54-701 to 54-753 and the rules and regulations established and promulgated by the Department of Agriculture.

Source: Laws 1927, c. 12, art. VIII, § 14, p. 95; C.S.1929, § 54-951; R.S.1943, § 54-753; Laws 2001, LB 438, § 19; Laws 2006, LB 856, § 24; Laws 2014, LB884, § 12.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-753.06 Transferred to section 54-7,109.

(f) IMPORT CONTROL

54-784.01 Act, how cited.

Sections 54-784.01 to 54-796 shall be known and may be cited as the Animal Importation Act.

Source: Laws 1992, LB 366, § 13; Laws 2013, LB647, § 1.

54-789 Individual identification of cattle; Department of Agriculture; powers; State Veterinarian; powers.

(1) Except as otherwise provided in this section, individual identification of cattle imported into Nebraska shall not be required if (a) the cattle are identified by a registered brand and accompanied by an official brand inspection certificate issued by the recognized brand inspection authority of the state of origin and (b) such cattle are imported directly from a mandatory brand inspection area of any state.

(2) The Department of Agriculture may require cattle imported into Nebraska to be identified by individual identification to enter the state if the Director of Agriculture determines that:

(a) The state of origin recognized brand registration or brand inspection procedures and documentation are insufficient to enable the tracing of individual animals to the animal's herd of origin;

(b) Identification by brand alone is in conflict with a standard of federal law or regulation regarding identification of cattle moved into Nebraska; or

(c) The cattle originate from a location that is not a tuberculosis accredited-free state or zone pursuant to 9 C.F.R. 77.7 or is not designated a brucellosis Class Free or Class A state or area pursuant to 9 C.F.R. 78.41, as such regulations existed on January 1, 2013.

(3) At no time shall a registered brand inspection certificate be used in lieu of a certificate of veterinary inspection.

(4) This section does not limit the authority of the State Veterinarian to issue import orders imposing additional requirements for animals imported into Nebraska from any state, country, zone, or other area, including requirements relating to identification.

(5) For purposes of this section:

(a) Individual identification means a device or method approved by the Department of Agriculture of uniquely identifying a specific animal to its herd of origin and is not synonymous with official identification; and

(b) Official identification means identifying an animal or group of animals using devices or methods approved by the Veterinary Services Office of the Animal and Plant Health Inspection Service of the United States Department of Agriculture, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

Source: Laws 2013, LB647, § 2.

(i) EXOTIC ANIMAL AUCTIONS AND SWAP MEETS

54-7,105 Act, how cited; purpose of sections.

(1) Sections 54-7,105 to 54-7,110 shall be known and may be cited as the Exotic Animal Auction or Exchange Venue Act.

(2) The purpose of the Exotic Animal Auction or Exchange Venue Act is to require an exotic animal auction or exchange venue organizer to obtain a permit from the department before conducting an exotic animal auction or exchange venue and to maintain records for animal disease tracking purposes. Exotic animals sold at an exotic animal auction or exchange venue are often foreign to the United States or to the State of Nebraska. These exotic animals may carry dangerous, infectious, contagious, or otherwise transmissible dis-

eases, including foreign animal diseases, which could pose a threat to Nebraska's livestock health and the livestock industry.

Source: Laws 2006, LB 856, § 6; Laws 2014, LB884, § 13.

Cross References

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,105.01 Terms, defined.

For purposes of the Exotic Animal Auction or Exchange Venue Act:

- (1) Accredited veterinarian has the same meaning as in section 54-701.03;
- (2) Animal has the same meaning as in section 54-701.03;
- (3) Animal welfare organization has the same meaning as in section 54-2503;
- (4) Certificate of veterinary inspection means a legible document approved by the department, either paper copy or electronic, issued by an accredited veterinarian at the point of origin of an animal movement which records the (a) name and address of both consignor and consignee, (b) purpose of animal's movement, (c) destination in the state which includes the street address or enhanced-911 address of the premises, (d) age, breed, sex, and number of animals in the shipment, (e) description of the animals, (f) individual identification, when required, and (g) health examination date of the animals. The certificate of veterinary inspection is an acknowledgment by the accredited veterinarian of the apparent absence of any infectious, dangerous, contagious, or otherwise transmissible disease of any animal sold or offered for sale, purchased, bartered, or other change of ownership at an exotic animal auction or exchange venue;
- (5) Change of ownership means the transfer within the State of Nebraska of possession or control of an animal allowed to be transferred through consignment, sale, purchase, barter, lease, exchange, trade, gift, or any other transfer of possession or control at an exotic animal auction or exchange venue;
- (6) Dangerous disease has the same meaning as in section 54-701.03;
- (7) Department means the Department of Agriculture of the State of Nebraska;
- (8) Domesticated cervine animal has the same meaning as in section 54-701.03;
- (9) Exotic animal means any animal which is not commonly sold through licensed livestock auction markets pursuant to the Livestock Auction Market Act. Such animals shall include, but not be limited to, miniature cattle (bovine), miniature horses, miniature donkeys, sheep (ovine), goats (caprine), alpacas (camelid), llamas (camelid), pot-bellied pigs (porcine), and small mammals, with the exception of cats of the *Felis domesticus* species and dogs of the *Canis familiaris* species. The term also includes birds and poultry. The term does not include beef and dairy cattle, calves, swine, bison, or domesticated cervine animals;
- (10) Exotic animal auction or exchange venue means any event or location, other than a livestock auction market as defined in section 54-1158 or events by an animal welfare organization or at an animal welfare organization location, where (a) an exotic animal is consigned, purchased, sold, traded, bartered, given away, or otherwise transferred, (b) an offer to purchase an exotic animal

is made, (c) an exotic animal is offered to be consigned, sold, traded, bartered, given away, or otherwise transferred, or (d) any other event or location where there is a change of ownership of an exotic animal;

(11) Exotic animal auction or exchange venue organizer means a person in charge of organizing an exotic animal auction or exchange venue event, and may include any person who: (a) Arranges events for third parties to have private sales or trades of exotic animals; (b) organizes or coordinates exotic animal auctions or exchange venues; (c) leases out areas for exotic animal auctions or exchange venues; (d) provides or coordinates other similar arrangements involving exotic animals at retail establishments such as feed and supply stores, farm implement stores, and farm and ranch stores, which allow such sales in or on the premises; or (e) takes exotic animals for consignment on behalf of third parties;

(12) Officially identified means the application of an official identification device or method approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services; and

(13) Poultry has the same meaning as in section 54-701.03.

Source: Laws 2014, LB884, § 14.

Cross References

Livestock Auction Market Act, see section 54-1156.

54-7,106 Permit; notification requirements; application; denial; grounds; prohibited acts.

(1) Each exotic animal auction or exchange venue organizer shall apply for a permit and notify the department at least thirty days prior to the date on which the exotic animal auction or exchange venue is to be held. An applicant for a permit shall verify upon the application that the applicant has contracted the services of an accredited veterinarian to be present during the exotic animal auction or exchange venue as required under subsection (4) of section 54-7,108. Notification shall include the location, time, and dates of the exotic animal auction or exchange venue and the name and address of the exotic animal auction or exchange venue organizer. Notification shall be made in writing or by facsimile transmission. If a livestock auction market holds an exotic animal auction or exchange venue through its licensed livestock auction market, such livestock auction market shall comply with the Exotic Animal Auction or Exchange Venue Act for purposes of the exotic animal auction or exchange venue.

(2) The department may deny an application for a permit if the application does not satisfy the requirements of subsection (1) of this section, for previous acts or omissions of the applicant in noncompliance with the Exotic Animal Auction or Exchange Venue Act, or upon a determination that the applicant is unable to fulfill the duties and responsibilities of a permittee under the act.

(3) No person shall conduct an exotic animal auction or exchange venue without a permit issued pursuant to this section.

(4) No change of ownership of bovine, camelid, caprine, ovine, or porcine animals may occur at private treaty on the premises where the exotic animal auction or exchange venue is being held for the twenty-four-hour period prior to commencement of the exotic animal auction or exchange venue, nor for

twenty-four hours following such event, unless such animals have a certificate of veterinary inspection at change of ownership.

Source: Laws 2006, LB 856, § 7; Laws 2014, LB884, § 15.

Cross References

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,107 Records; contents; access by department.

(1) An exotic animal auction or exchange venue organizer shall maintain records for each exotic animal auction or exchange venue such organizer arranges, organizes, leases areas for, consigns, or otherwise coordinates at least five years after the date of the exotic animal auction or exchange venue. The records shall include:

(a) The name, address, and telephone number of the exotic animal auction or exchange venue organizer;

(b) The name and address of all persons who purchased, sold, traded, bartered, gave away, or otherwise transferred an exotic animal at the exotic animal auction or exchange venue;

(c) The number of and species or type of each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or exchange venue;

(d) The date of purchase, sale, trade, barter, or other transfer of an exotic animal at the exotic animal auction or exchange venue; and

(e) When required by the Animal Importation Act or the Exotic Animal Auction or Exchange Venue Act, a copy of the completed certificate of veterinary inspection for each exotic animal purchased, sold, traded, bartered, given away, or otherwise transferred at the exotic animal auction or exchange venue.

(2) An exotic animal auction or exchange venue organizer shall, during all reasonable times, permit authorized employees and agents of the department to have access to and to copy any or all records relating to his or her exotic animal auction or exchange venue business.

(3) When necessary for the enforcement of the Exotic Animal Auction or Exchange Venue Act or any rules and regulations adopted and promulgated pursuant to such act, the authorized employees and agents of the department may access the records required by this section.

Source: Laws 2006, LB 856, § 8; Laws 2014, LB884, § 16.

Cross References

Animal Importation Act, see section 54-784.01.

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Violations, penalties, see section 54-752.

54-7,108 Prohibited transfers; certificate of veterinary inspection; duties of exotic animal auction or exchange venue organizer; requirements for certain animals.

(1) No beef or dairy cattle, calves, swine, bison, or domesticated cervine animals shall be, or offered to be, consigned, purchased, sold, bartered, traded,

given away, or otherwise transferred at an exotic animal auction or exchange venue.

(2) An exotic animal auction or exchange venue organizer shall contact the department if a particular animal cannot be readily identified as an animal that is prohibited from being consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue under this section.

(3) No bovine, camelid, caprine, ovine, or porcine animal shall be, or be offered to be, consigned, purchased, sold, bartered, traded, given away, or otherwise transferred at an exotic animal auction or exchange venue unless, prior to a change of ownership or other transfer of the animal, a completed certificate of veterinary inspection for such animal is presented to the exotic animal auction or exchange venue organizer. Such certificate of veterinary inspection shall be signed by an accredited veterinarian on the date of or no more than thirty days prior to the date the exotic animal auction or exchange venue is held.

(4) An exotic animal auction or exchange venue organizer shall contract with an accredited veterinarian to be present during the exotic animal auction or exchange venue for visually inspecting such exotic animals and to issue necessary certificates of veterinary inspection for change of ownership when required by the Animal Importation Act or the Exotic Animal Auction or Exchange Venue Act.

(5) All dairy goats imported into Nebraska shall have an official tuberculin test prior to import into Nebraska. All sheep and goats shall have official identification as required under the Scrapie Control and Eradication Act.

(6) A copy of the certificate of veterinary inspection shall be submitted to the department by the exotic animal auction or exchange venue organizer within seven days from the date the exotic animal auction or exchange venue was held.

(7) Any bovine, camelid, caprine, ovine, or porcine animal which is not prohibited from transfer at an exotic animal auction or exchange venue shall be officially identified prior to change of ownership.

Source: Laws 2006, LB 856, § 9; Laws 2014, LB884, § 17.

Cross References

Animal Importation Act, see section 54-784.01.

Definitions, see section 54-701.03.

Department of Agriculture, State Veterinarian, powers, see sections 54-703 to 54-705.

Scrapie Control and Eradication Act, see section 54-2701.

Violations, penalties, see section 54-752.

54-7,109 Compliance with game laws required.

Compliance with the Exotic Animal Auction or Exchange Venue Act does not relieve a person of the requirement to comply with the provisions of sections 37-477 to 37-479.

Source: Laws 2006, LB 856, § 10; R.S.1943, (2010), § 54-753.06; Laws 2014, LB884, § 18.

54-7,110 Act; enforcement; rules and regulations; penalties.

(1) The Exotic Animal Auction or Exchange Venue Act shall be enforced by the department as provided in sections 54-703 to 54-705.

(2) The department may adopt and promulgate rules and regulations to aid in the administration and enforcement of the act. The rules and regulations may include, but are not limited to, provisions governing record keeping and any other requirements necessary for the enforcement of the act.

(3) Penalties and remedies for violations of the act and any rules and regulations adopted and promulgated pursuant to the act are in sections 54-751 to 54-753.

Source: Laws 2014, LB884, § 19.

ARTICLE 8 COMMERCIAL FEED

Section

- 54-850. Manufacturer or distributor; license required; application; fee; posting; exception; cancellation.
 54-856. Inspection fees; administrative fee; statement and records required.
 54-857. Commercial Feed Administration Cash Fund; created; use; investment.

54-850 Manufacturer or distributor; license required; application; fee; posting; exception; cancellation.

(1) No person shall manufacture or distribute commercial feed in this state unless such person holds a valid license for each manufacturing and distribution facility in this state. Any out-of-state manufacturer or distributor who has no distribution facility within this state shall obtain a license for his or her principal out-of-state office if he or she markets or distributes commercial feed in the State of Nebraska.

(2) Application for a license shall be made to the department on forms prescribed and furnished by the department. The application shall be accompanied by an annual license fee of fifteen dollars. Licenses shall be renewed on or before January 1 of each year.

(3) A copy of the valid license shall be posted in a conspicuous place in each manufacturing or distribution facility.

(4) This section shall not apply to any person who distributes less than a five-ton volume of commercial feed annually.

(5) The director may refuse to issue a license for any commercial feed facility not in compliance with the Commercial Feed Act and may cancel any license subsequently found not in compliance with such act. No license shall be refused or canceled unless the applicant has been given an opportunity to be heard before the director.

Source: Laws 1986, LB 322, § 4; Laws 1997, LB 752, § 133; Laws 2016, LB909, § 4.

54-856 Inspection fees; administrative fee; statement and records required.

(1) There shall be paid to the director an inspection fee of ten cents per ton on all commercial feed distributed in the State of Nebraska during the six-month period following January 1, 1987. After the first six months of operation, the fee may be raised or lowered by the director after a public hearing is held outlining the reason for any proposed change in the rate. The maximum rate fixed by the director shall not exceed fifteen cents per ton. The inspection fee shall be paid on commercial feed distributed by the person whose name

appears on the label as the manufacturer, guarantor, or distributor, except that a person other than the manufacturer, guarantor, or distributor may assume liability for the inspection fee, subject to the following:

(a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor;

(b) No fee shall be paid on customer-formula feed if the inspection fee is paid on the commercial feed which is used as ingredients therein;

(c) No fee shall be paid on commercial feed used as ingredients for the manufacture of other commercial feed. If the fee has already been paid, credit shall be given for such payment;

(d) In the case of a commercial feed which is distributed in the state only in packages of ten pounds or less, an annual fee fixed by the director, not to exceed twenty-five dollars, shall be paid in lieu of the inspection fee. The annual fee shall be paid not later than the last day of January each year; and

(e) The minimum inspection fee shall be five dollars for any six-month reporting period.

(2) If the director determines that it is necessary to adjust the rate of the inspection fee being paid to the department, all persons holding a valid license issued pursuant to section 54-850 shall be so notified and shall be given an opportunity to offer comment at a public hearing which shall be required prior to any inspection fee rate change.

(3) Each person who is liable for the payment of such fee shall:

(a) File, not later than January 31 and July 31 of each year, a semiannual statement setting forth the number of tons of commercial feed distributed in this state during the preceding six-month period, which statement shall cover the periods from July 1 to December 31 and January 1 to June 30, and upon filing such statement, pay the inspection fee at the rate specified by this section. Any person who holds a valid license issued pursuant to section 54-850 and whose name appears on the label as the manufacturer, guarantor, or distributor shall file such statement regardless of whether any inspection fee is due. Inspection fees which are due and owing and have not been remitted to the director within fifteen days following the date due shall have an administrative fee of twenty-five percent of the fees due added to the amount due when payment is made, and an additional administrative fee of twenty-five percent of the fees due shall be added if such inspection and administrative fees are not paid within thirty days of the due date. The purpose of the additional administrative fees is to cover the administrative costs associated with collecting fees. All money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Commercial Feed Administration Cash Fund. The assessment of this administrative fee shall not prevent the director from taking other actions as provided in the Commercial Feed Act; and

(b) Keep such records as may be necessary or required by the director to indicate accurately the tonnage of commercial feed distributed in this state. The director shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement, to pay the inspection fee, or to comply as provided in this section shall constitute sufficient cause for the cancellation of all licenses on file.

Source: Laws 1986, LB 322, § 10; Laws 1992, LB 366, § 18; Laws 2016, LB909, § 5.

54-857 Commercial Feed Administration Cash Fund; created; use; investment.

All money received pursuant to the Commercial Feed Act shall be remitted by the director to the State Treasurer for credit to the Commercial Feed Administration Cash Fund which is hereby created. Such fund shall be used by the department to aid in defraying the expenses of administering the act and to aid in defraying the expenses related to a cooperative agreement with the United States Department of Agriculture Market News reporting program. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Commercial Feed Administration Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1986, LB 322, § 11; Laws 1995, LB 7, § 57; Laws 2008, LB961, § 3; Laws 2009, First Spec. Sess., LB3, § 29; Laws 2011, LB305, § 1; Laws 2012, LB782, § 83; Laws 2014, LB941, § 2; Laws 2017, LB2, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 9

LIVESTOCK ANIMAL WELFARE ACT

Section

- 54-901. Act, how cited.
- 54-902. Terms, defined.
- 54-905. Court order for reimbursement of expenses; liability for expenses; lien.
- 54-906. Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; custody agreement; law enforcement officer; powers; duties; liability.
- 54-913. Livestock animal seized; hearing to determine disposition and cost; notice; court order; appeal; euthanasia.

54-901 Act, how cited.

Sections 54-901 to 54-913 shall be known and may be cited as the Livestock Animal Welfare Act.

Source: Laws 2010, LB865, § 1; Laws 2013, LB423, § 5.

54-902 Terms, defined.

For purposes of the Livestock Animal Welfare Act:

(1) Abandon means to leave a livestock animal in one's care, whether as owner or custodian, for any length of time without making effective provision for the livestock animal's feed, water, or other care as is reasonably necessary for the livestock animal's health;

(2) Animal welfare practice means veterinarian practices and animal husbandry practices common to the livestock animal industry, including transport of livestock animals from one location to another;

(3) Bovine means a cow, an ox, or a bison;

(4) Cruelly mistreat means to knowingly and intentionally kill or cause physical harm to a livestock animal in a manner that is not consistent with animal welfare practices;

(5) Cruelly neglect means to fail to provide a livestock animal in one's care, whether as owner or custodian, with feed, water, or other care as is reasonably necessary for the livestock animal's health;

(6) Equine means a horse, pony, donkey, mule, or hinny;

(7) Euthanasia means the destruction of a livestock animal by commonly accepted veterinary practices;

(8) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local laws, rules, regulations, or ordinances;

(9) Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, llamas, or poultry;

(10) Owner or custodian means any person owning, keeping, possessing, harboring, or knowingly permitting an animal to remain on or about any premises owned or occupied by such person; and

(11) Serious injury or illness includes any injury or illness to any livestock animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

Source: Laws 2010, LB865, § 2; Laws 2013, LB423, § 6.

54-905 Court order for reimbursement of expenses; liability for expenses; lien.

(1) In addition to any other sentence given for a violation of section 54-903 or 54-904, the sentencing court may order the defendant to reimburse a public or private agency for any unreimbursed expenses incurred in conjunction with the care, seizure, or disposal of a livestock animal involved in the violation of such section. Whenever the court believes that such reimbursement is a proper sentence or at the prosecuting attorney's request, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, seizure, or disposal of a livestock animal. The expenses shall be a lien upon the livestock animal.

Source: Laws 2010, LB865, § 5; Laws 2013, LB423, § 7.

54-906 Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; custody agreement; law enforcement officer; powers; duties; liability.

(1) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated

may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal.

(2) A law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner or custodian as prescribed in sections 29-422 to 29-429.

(3) A law enforcement officer may specify in a custody agreement the terms and conditions by which the owner or custodian may maintain custody of the livestock animal to provide care for such animal at the expense of the owner or custodian. The custody agreement shall be signed by the owner or custodian of the livestock animal. A copy of the signed agreement shall be provided to the owner or custodian of the livestock animal. A violation of the custody agreement may result in the seizure of the livestock animal.

(4) Any equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct. Any livestock animal involved in a violation of section 54-903 or 54-904 shall be subject to seizure. Distribution or disposition shall be made under section 54-913 as the court may direct. Any livestock animal seized under this subsection may be kept by the law enforcement officer on the property of the owner or custodian of such livestock animal.

(5) A law enforcement officer may euthanize or cause a livestock animal seized or kept pursuant to this section to be euthanized if the animal is severely emaciated, injured, disabled, or diseased past recovery for any useful purpose. The law enforcement officer shall notify the owner or custodian prior to the euthanasia if practicable under the circumstances. An owner or custodian may request that a veterinarian of the owner's or custodian's choosing view the livestock animal and be present upon examination of the livestock animal, and no livestock animal shall be euthanized without reasonable accommodation to provide for the presence of the owner's or custodian's veterinarian when requested. However, attempted notification of the owner or custodian or the presence of the owner's or custodian's veterinarian shall not unduly delay euthanasia when necessary. The law enforcement officer may forgo euthanasia if the care of the livestock animal is placed with the owner's or custodian's veterinarian.

(6) A law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

Source: Laws 2010, LB865, § 6; Laws 2013, LB423, § 8.

54-913 Livestock animal seized; hearing to determine disposition and cost; notice; court order; appeal; euthanasia.

(1) After a livestock animal has been seized, the agency that took custody of the livestock animal shall, within seven days after the date of seizure, file a complaint with the district court in the county in which the animal was seized for a hearing to determine the disposition and the cost for the care of the livestock animal. Notice of such hearing shall be given to the owner or custodian from whom such livestock animal was seized and to any holder of a lien or security interest of record in such livestock animal, specifying the date, time, and place of such hearing. Such notice shall be served by personal or residential service or by certified mail. If such notice cannot be served by such

methods, service may be made by publication in the county where such livestock animal was seized. Such publication shall be made after application and order of the court. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court.

(2) If the court finds that probable cause exists that the livestock animal has been abandoned or cruelly neglected or mistreated, the court may:

(a) Order immediate forfeiture of the livestock animal to the agency that took custody of the livestock animal and authorize appropriate disposition of the livestock animal, including sale at public auction, adoption, donation to a suitable shelter, humane destruction, or any other manner of disposition approved by the court. With respect to sale of a livestock animal, the proceeds shall first be applied to the cost of sale and then to the expenses for the care of the livestock animal and the remaining proceeds, if any, shall be paid to the holder of a lien or security interest of record in such livestock animal and then to the owner of the livestock animal;

(b) Issue an order to the owner or custodian setting forth the conditions under which custody of the livestock animal shall be returned to the owner or custodian from whom the livestock animal was seized or to any other person claiming an interest in the livestock animal. Such order may include any management actions deemed necessary and prudent by the court, including culling by sale, humane disposal, or forfeiture and securing necessary care, including veterinary care, sufficient for the maintenance of any remaining livestock animal; or

(c) Order the owner or custodian from whom the livestock animal was seized to post a bond or other security, or to otherwise order payment, in an amount that is sufficient to reimburse all reasonable expenses, as determined by the court, for the care of the livestock animal, including veterinary care, incurred by the agency from the date of seizure and necessitated by the possession of the livestock animal. Payments shall be for a succeeding thirty-day period with the first payment due on or before the tenth day following the hearing. Payments for each subsequent succeeding thirty-day period, if any, shall be due on or before the tenth day of such period. The bond or security shall be placed with, or payments ordered under this subdivision shall be paid to, the agency that took custody of the livestock animal. The agency shall provide an accounting of expenses to the court when the livestock animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent hearing under this subsection at any time. The hearing shall be held as soon as practicable and not more than ten business days after the date of application for the hearing unless otherwise determined and ordered by the court. When all expenses covered by the bond or security are exhausted and subsequent bond or security has not been posted or if a person becomes delinquent in his or her payments for the expenses of the livestock animal, the livestock animal shall be forfeited to the agency.

(3) If custody of a livestock animal is returned to the owner or custodian of the livestock animal prior to seizure, any proceeds of a bond or security or any payment or portion of payment ordered under this section not used for the care of the livestock animal during the time the animal was held by the agency shall be returned to the owner or custodian.

(4) Nothing in this section shall prevent the euthanasia of a seized livestock animal at any time as determined necessary by a law enforcement officer or as authorized by court order.

(5) An appeal may be entered within ten days after a hearing under this section. Any person filing an appeal shall post a bond or security sufficient to pay reasonable costs of care of the livestock animal for thirty days. Such payment will be required for each succeeding thirty-day period until the appeal is final.

(6) If the owner or custodian from whom the livestock animal was seized is found not guilty in an associated criminal proceeding, all funds paid for the expenses of the livestock animal remaining after the actual expenses incurred by the agency have been paid shall be returned to such person.

(7) This section shall not preempt any ordinance of a city of the metropolitan or primary class.

Source: Laws 2013, LB423, § 9.

ARTICLE 11

LIVESTOCK AUCTION MARKET ACT

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| Section | |
| 54-1156. | Act, how cited. |
| 54-1158. | Terms, defined. |
| 54-1159. | Exemptions from act. |
| 54-1160. | Repealed. Laws 2013, LB 78, § 23. |
| 54-1160.01. | Brand inspection. |
| 54-1161. | License required; application for license; contents. |
| 54-1162. | Hearing; notice. |
| 54-1163. | Hearing; determination; factors; issuance of license. |
| 54-1165. | License fee; payments; disposition. |
| 54-1166. | Livestock auction markets; license personal to holder; transfer; posting; termination. |
| 54-1168. | Records required; available for inspection. |
| 54-1169. | Department; complaint; notice of hearing; process; hearings; findings; suspension or revocation of license. |
| 54-1170. | Director; audio recording; appeal; procedure. |
| 54-1172. | Livestock Auction Market Fund; creation; use; investment. |
| 54-1173. | Livestock Auction Market Fund; license and permit fees; occupation tax; use. |
| 54-1174. | Repealed. Laws 2014, LB 884, § 34. |
| 54-1177. | Repealed. Laws 2014, LB 884, § 34. |
| 54-1180. | Inspection of livestock; duties; fees; use; disposition; notice of change. |
| 54-1181. | Veterinarians; agreement for services; contents; compensation; liability. |
| 54-1182. | Livestock sold; treatment by veterinarians; release; documentation; rules and regulations. |
| 54-1183. | Transferred to section 54-1,129. |
| 54-1184. | Transferred to section 54-1,130. |
| 54-1185. | Transferred to section 54-1,131. |

54-1156 Act, how cited.

Sections 54-1156 to 54-1182 shall be known and may be cited as the Livestock Auction Market Act.

Source: Laws 1963, c. 319, § 32, p. 973; Laws 1985, LB 97, § 3; R.S.1943, (1998), § 54-1186; Laws 1999, LB 778, § 78; Laws 2001, LB 197, § 5; Laws 2014, LB884, § 20.

54-1158 Terms, defined.

As used in the Livestock Auction Market Act, unless the context otherwise requires:

- (1) Accredited veterinarian has the same meaning as in section 54-701.03;
- (2) Department means the Department of Agriculture;
- (3) Designated veterinarian means an accredited veterinarian who has been designated and authorized by the State Veterinarian to make inspections of livestock at livestock auction markets as may be required by law or regulation whether such livestock is moved in interstate or intrastate commerce;
- (4) Director means the Director of Agriculture;
- (5) Livestock means cattle, calves, swine, sheep, and goats;
- (6) Livestock auction market means any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;
- (7) Livestock auction market operator means any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees;
- (8) Market license means the license for a livestock auction market authorized to be issued under the act;
- (9) Person means any individual, firm, association, partnership, limited liability company, or corporation; and
- (10) State Veterinarian means the veterinarian in charge of the Bureau of Animal Industry within the department or his or her designee, subordinate to the director.

Source: Laws 1963, c. 319, § 2, p. 962; Laws 1993, LB 121, § 340; Laws 1999, LB 778, § 63; Laws 2001, LB 197, § 7; Laws 2013, LB78, § 1; Laws 2014, LB884, § 21.

54-1159 Exemptions from act.

- (1) The Livestock Auction Market Act shall not be construed to include:
 - (a) Any place or operation where Future Farmers of America, 4-H groups, or private fairs conduct sales of livestock;
 - (b) An animal welfare organization as defined in section 54-2503;
 - (c) Any place or operation conducted for a dispersal sale of the livestock of farmers, dairypersons, or livestock breeders or feeders, where no other livestock is sold or offered for sale; or
 - (d) Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock, when such breeders assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales.
- (2) An exotic animal auction or exchange venue or an exotic animal auction or exchange venue organizer as defined in section 54-7,105.01 is not required to be licensed under the Livestock Auction Market Act if any bovine, camelid, caprine, ovine, or porcine allowed to be sold under the Exotic Animal Auction or Exchange Venue Act are accompanied by a certificate of veterinary inspec-

tion issued by an accredited veterinarian and the exotic animal auction or exchange venue organizer contracts for the services of an accredited veterinarian to issue such certificates onsite during the auction or exchange venue for bovine, camelid, caprine, ovine, or porcine present.

Source: Laws 1963, c. 319, § 3, p. 962; Laws 1999, LB 778, § 64; Laws 2001, LB 197, § 8; Laws 2014, LB884, § 22.

Cross References

Exotic Animal Auction or Exchange Venue Act, see section 54-7,105.

54-1160 Repealed. Laws 2013, LB 78, § 23.

54-1160.01 Brand inspection.

The owner or operator of any livestock auction market located in any county outside the brand inspection area created in section 54-1,109 may voluntarily elect to provide brand inspection as provided in sections 54-1,129 to 54-1,131.

Source: Laws 2014, LB884, § 23.

54-1161 License required; application for license; contents.

No person shall conduct or operate a livestock auction market unless he or she holds a market license therefor, upon which the current annual market license fee has been paid. Any person making application for a new market license shall do so to the director in writing, verified by the applicant, on a form prescribed by the department, showing the following:

(1) The name and address of the applicant with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest;

(2) Financial responsibility of the applicant in the form of a statement of all assets and liabilities;

(3) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such livestock auction market;

(4) The schedule of charges an applicant proposes for all services proposed to be rendered; and

(5) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such livestock auction market, the benefits to be derived by the livestock industry, and the services proposed to be rendered.

Such application shall be accompanied by the annual fee as prescribed in section 54-1165.

Source: Laws 1963, c. 319, § 5, p. 964; Laws 1997, LB 752, § 134; Laws 2013, LB78, § 2; Laws 2014, LB884, § 24.

54-1162 Hearing; notice.

Upon the filing of the application as provided in section 54-1161, the director shall fix a reasonable time for the hearing at a place designated by him or her at which time a hearing shall be held on the proposed location of the livestock auction market. The director forthwith shall cause a copy of such application, together with notice of the time and place of hearing, to be served by mail not less than fifteen days prior to such hearing, upon the following:

(1) All duly organized statewide livestock associations in the state who have filed written requests with the department to receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application; and

(2) All livestock auction market operators in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly newspaper circulated in the city or village where such hearing is to be held, as in the opinion of the director will give reasonable public notice of such time and place of hearing to persons interested therein.

Source: Laws 1963, c. 319, § 6, p. 964; Laws 2001, LB 197, § 10; Laws 2013, LB78, § 3.

54-1163 Hearing; determination; factors; issuance of license.

The hearing required by section 54-1162 shall be heard by the director. If the director determines, after such hearing, that the proposed livestock auction market would beneficially serve the livestock economy, the department shall issue a market license to the applicant. In determining whether or not the application should be granted or denied, reasonable consideration shall be given to:

(1) The ability of the applicant to comply with the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended;

(2) The financial stability, business integrity, and fiduciary responsibility of the applicant;

(3) The adequacy of the facilities described to permit the performance of market services proposed in the application;

(4) The present needs for market services or additional services as expressed by livestock growers and feeders in the community; and

(5) Whether the proposed livestock auction market would be permanent and continuous.

Source: Laws 1963, c. 319, § 7, p. 965; Laws 1999, LB 778, § 66; Laws 2013, LB78, § 4; Laws 2014, LB884, § 25.

54-1165 License fee; payments; disposition.

Every livestock auction market operator shall pay annually, on or before August 1, a market license fee of one hundred fifty dollars to the department for each livestock auction market operated by him or her, which payment shall constitute a renewal for one year. Fees so paid shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund for the expenses of administration of the Livestock Auction Market Act.

Source: Laws 1963, c. 319, § 9, p. 966; Laws 1983, LB 617, § 9; Laws 1999, LB 778, § 67; Laws 2001, LB 197, § 11; Laws 2013, LB78, § 5.

54-1166 Livestock auction markets; license personal to holder; transfer; posting; termination.

Except as otherwise provided in this section, each market license shall be personal to the holder and the facilities covered thereby and transferable

without a hearing. The original or a certified copy of such license shall be posted during sale periods in a conspicuous place on the premises where the livestock auction market is conducted. The market license covering any livestock auction market which does not hold a sale for a period of one year shall terminate automatically one year from the date of the last sale conducted by the livestock auction market, and the license holder whose license is so terminated may request a hearing by filing a written request for such hearing within twenty days after the termination of the license.

Source: Laws 1963, c. 319, § 10, p. 966; Laws 1985, LB 97, § 2; Laws 2014, LB884, § 26.

54-1168 Records required; available for inspection.

Every market license holder under the Livestock Auction Market Act shall keep an accurate record of all transactions conducted in the ordinary course of his or her business. Such records shall be available for examination of the director, or his or her duly authorized representative, in respect to a market license issued under such act.

Source: Laws 1963, c. 319, § 12, p. 966; Laws 1999, LB 778, § 68; Laws 2001, LB 197, § 12; Laws 2013, LB78, § 6.

54-1169 Department; complaint; notice of hearing; process; hearings; findings; suspension or revocation of license.

(1) The department may, upon its own motion, whenever it has reason to believe the Livestock Auction Market Act has been violated, or upon verified complaint of any person in writing, investigate the actions of any market license holder, and if the department finds probable cause to do so, shall file a complaint against the market license holder which shall be set down for hearing before the director upon fifteen days' notice served upon such market license holder either by personal service upon him or her or by registered or certified mail prior to such hearing.

(2) The director shall have the power to administer oaths, certify to all official acts, and subpoena any person in this state as a witness, to compel the producing of books and papers, and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness who shall appear by the order of the director at any hearing shall receive for such attendance the same fees allowed by law to witnesses in civil cases appearing in the district court and mileage at the same rate provided in section 81-1176, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but has been subpoenaed by the director, his or her fees and mileage shall be paid by the director in the same manner as other expenses are paid under the Livestock Auction Market Act.

(3) All powers of the director as provided in this section shall likewise be applicable to hearings held on applications for the issuance of a market license.

(4) Formal finding by the director after due hearing that any market license holder (a) has ceased to conduct a livestock auction market business, (b) has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock, (c) has violated any

of the provisions of the Livestock Auction Market Act, or (d) has violated any of the rules or regulations adopted and promulgated under the act, shall be sufficient cause for the suspension or revocation of the market license of the offending livestock auction market operator.

Source: Laws 1963, c. 319, § 13, p. 966; Laws 1981, LB 204, § 95; Laws 1999, LB 778, § 69; Laws 2001, LB 197, § 13; Laws 2013, LB78, § 7; Laws 2014, LB884, § 27.

54-1170 Director; audio recording; appeal; procedure.

The director shall keep an audio recording of all proceedings and evidence presented in any hearing under the Livestock Auction Market Act. The applicant for a market license, any protestant formally appearing in the hearing for such market license, the holder of any market license suspended or revoked, or any party to a transfer application may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1963, c. 319, § 14, p. 968; Laws 1988, LB 352, § 95; Laws 2013, LB78, § 8; Laws 2014, LB884, § 28.

Cross References

Administrative Procedure Act, see section 84-920.

54-1172 Livestock Auction Market Fund; creation; use; investment.

Salaries and expenses of employees, costs of hearings, and all other costs of administration of the Livestock Auction Market Act shall be paid from the Livestock Auction Market Fund which is hereby created. Any money in the Livestock Auction Market Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1963, c. 319, § 16, p. 969; Laws 1999, LB 778, § 71; Laws 2001, LB 197, § 15; Laws 2013, LB78, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-1173 Livestock Auction Market Fund; license and permit fees; occupation tax; use.

The license and permit fees collected as provided by the Livestock Auction Market Act are an occupation tax and shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering such act and shall be paid out only on vouchers approved by the director and upon the warrant or warrants issued by the Director of Administrative Services. Any unexpended balance in such fund at the close of any biennium shall, when reappropriated, be available for the uses and purposes of the fund for the succeeding biennium.

Source: Laws 1963, c. 319, § 17, p. 969; Laws 1969, c. 584, § 54, p. 2379; Laws 1995, LB 7, § 58; Laws 1999, LB 778, § 72; Laws 2001, LB 197, § 16; Laws 2014, LB884, § 29.

54-1174 Repealed. Laws 2014, LB 884, § 34.

54-1177 Repealed. Laws 2014, LB 884, § 34.**54-1180 Inspection of livestock; duties; fees; use; disposition; notice of change.**

All cattle, calves, swine, sheep, and goats, upon entering a livestock auction market, shall be inspected for health before being offered for sale. Such inspection shall be made by a designated veterinarian. The fees for such inspection shall be established by rules and regulations of the department and shall be collected by the operator of the livestock auction market. Such fees shall be used to pay the fees of necessary inspections and for no other purpose and shall be remitted as may be provided by regulation. The fees shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund and shall be expended exclusively to pay the fees of providing necessary inspections at the livestock auction market which has remitted such fees. Each designated veterinarian making market inspections shall be paid twenty-five dollars for each regularly scheduled sale day in each calendar month as a guaranteed minimum salary for providing adequate inspection services. If the fees collected each calendar month by the market operator do not equal such amount, the market operator shall make up the difference in his or her remittance to the state. The rules and regulations establishing fees for such inspection shall not be adopted, amended, or repealed until after notice by mail to each market licensee and designated veterinarian of the time and place of hearing on the question of adoption, amendment, or repeal of such rules and regulations; such notice shall be mailed at least ten days prior to the date of hearing and shall be sufficient if addressed to the last-known address of each market licensee and designated veterinarian shown on the records of the department.

Source: Laws 1963, c. 319, § 24, p. 971; Laws 1965, c. 334, § 5, p. 956; Laws 1969, c. 454, § 1, p. 1543; Laws 2001, LB 197, § 20; Laws 2014, LB884, § 30.

54-1181 Veterinarians; agreement for services; contents; compensation; liability.

The State Veterinarian shall make the designation of the veterinarians required by sections 54-1180 and 54-1182 by entering into an agreement with any accredited veterinarian for his or her professional services in performing necessary inspections. Such agreement shall provide that the State Veterinarian may terminate it at any time for what he or she deems to be just cause and shall further provide that the state pay such veterinarian a fee as established by section 54-1180, which amount shall be paid monthly from the Livestock Auction Market Fund. Such agreement shall make the designated veterinarian an agent for the Department of Agriculture to perform the duties assigned by sections 54-1180 and 54-1182, and the rules and regulations prescribed by the department, but shall not be deemed to make the designated veterinarian an officer or employee of the state. The orders of such designated veterinarian, issued in the performance of the duties assigned under sections 54-1180 and 54-1182 and the rules and regulations prescribed by the department, shall have the same force and effect as though such order had been made by the State Veterinarian. Designated veterinarians shall not be liable for reasonable acts performed to carry out the duties as set forth in sections 54-1180 and 54-1182

and the rules and regulations prescribed by the department pursuant to such sections.

Source: Laws 1963, c. 319, § 25, p. 971; Laws 1965, c. 334, § 6, p. 957; Laws 1969, c. 454, § 2, p. 1544; Laws 2001, LB 197, § 21; Laws 2014, LB884, § 31.

54-1182 Livestock sold; treatment by veterinarians; release; documentation; rules and regulations.

Any livestock sold or disposed of at a livestock auction market, before removal therefrom, shall be released by the designated veterinarian and treated to conform with the health requirements of the rules and regulations prescribed by the department for the movement of livestock. When required, the designated veterinarian shall furnish each owner with documentation showing such inspection, treatment, or quarantine. No such livestock for interstate or intrastate shipment shall be released until all the requirements of the state of its destination have been complied with. Any diseased or exposed livestock shall be handled in accordance with the rules and regulations as prescribed by the department.

Source: Laws 1963, c. 319, § 26, p. 972; Laws 1965, c. 334, § 7, p. 957; Laws 1999, LB 778, § 75; Laws 2001, LB 197, § 22; Laws 2003, LB 160, § 8; Laws 2014, LB884, § 32.

54-1183 Transferred to section 54-1,129.

54-1184 Transferred to section 54-1,130.

54-1185 Transferred to section 54-1,131.

**ARTICLE 13
BRUCELLOSIS**

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

Section

54-1371. Brucellosis testing; owner responsibilities; violation; penalty; costs; administrative fee; Brucellosis Control Cash Fund; created; use; investment.

54-1382. Department; adopt rules and regulations.

(c) NEBRASKA BOVINE BRUCELLOSIS ACT

54-1371 Brucellosis testing; owner responsibilities; violation; penalty; costs; administrative fee; Brucellosis Control Cash Fund; created; use; investment.

(1) Whenever brucellosis testing is performed under section 54-1369 with respect to a sale at private treaty or under section 54-1370, the owner of the animals shall be responsible for gathering, confining, and restraining the animals to be tested and shall provide the necessary facilities and assistance. With respect to tests conducted at markets, concentration points, or slaughter establishments, the responsibility shall be borne by the owner of the establishment.

(2) Any person failing to carry out the responsibilities set out under subsection (1) of this section shall be guilty of a Class IV misdemeanor.

(3) Whenever any person fails to carry out the responsibilities set out under subsection (1) of this section, the department shall perform such functions. Upon completion of the testing, the department shall determine its actual costs incurred in handling the livestock and conducting the testing and notify the responsible person in writing. The responsible person shall reimburse the department its actual costs within fifteen days following the date of the notice. Any person failing to reimburse the department as required shall be assessed an administrative fee of up to twenty-five percent of the amount due for each thirty days of delinquency. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting the actual costs incurred and any administrative fees.

(4) All money received by the department under subsection (3) of this section shall be remitted to the State Treasurer for credit to the Brucellosis Control Cash Fund, which fund is hereby created. Expenditures from the fund may be made to conduct brucellosis testing under the Nebraska Bovine Brucellosis Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1983, LB 573, § 5; Laws 1995, LB 7, § 59; Laws 2016, LB909, § 6.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-1382 Department; adopt rules and regulations.

The department shall adopt and promulgate rules and regulations to aid in implementing the Nebraska Bovine Brucellosis Act. The rules and regulations may include, but need not be limited to, provisions governing:

(1) The conduct of the market livestock testing program, including provisions governing when, where, how, and by whom testing is to be done; what animals are to be tested; and how test results are to be recorded and reported;

(2) The conduct of the brucellosis eradication program, including when, where, how, by whom, and how often testing is to be done; what animals are to be tested; and how test results are to be recorded and reported. The rules and regulations may also include provisions designed to maintain or enhance the federal designation of brucellosis areas within the state and provisions for certifying herds for brucellosis status;

(3) The issuance and release of brucellosis quarantines and the requirements regarding the handling, movement, and disposition of livestock under quarantine;

(4) The testing of livestock to detect brucellosis, including which tests are to be deemed official, by whom the tests are to be administered, how the tests are to be conducted, the reaction tolerances to be recognized, and the classification of results as to negative, suspect, or reactor animals. The rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of brucellosis;

(5) The assessment of administrative fees under subsection (3) of section 54-1371;

(6) The branding and disposition of reactors, including the brand to be used and how it is to be placed, and when and how branding and shipment to slaughter are to be performed;

(7) The branding and handling of exposed animals, including the brand to be used and how it is to be placed, and when and how branding and movement are to be performed;

(8) The cleaning and disinfecting of premises, including the materials to be used, the procedures to be used, and when such procedures are to be performed;

(9) The official brucellosis vaccination program, including the vaccines allowed to be used, the permitted concentrations, the age of the animals to be vaccinated, the effect of vaccination on the interpretation of test results, and the sale and use of vaccine;

(10) The identification of animals subject to the act, including exposed and infected animals, vaccinated animals, and animals tested and to be tested;

(11) The issuance of permits under section 54-1378;

(12) Compliance with the provisions of the Uniform Methods and Rules for Brucellosis Eradication;

(13) The payment for activities and services conducted under the act;

(14) The preparation, maintenance, handling, and filing of records and reports by persons subject to the act, regarding activities performed in accordance with the act, including the vaccination, testing, branding, or movement of animals that may have been infected with or exposed to brucellosis; and

(15) Any other areas deemed necessary by the department to effectively control and eradicate brucellosis.

Source: Laws 1983, LB 573, § 16; Laws 1993, LB 1, § 2; Laws 2016, LB909, § 7.

ARTICLE 14

SCABIES

Section

- 54-1401. Repealed. Laws 2015, LB 91, § 1.
- 54-1402. Repealed. Laws 2015, LB 91, § 1.
- 54-1403. Repealed. Laws 2015, LB 91, § 1.
- 54-1404. Repealed. Laws 2015, LB 91, § 1.
- 54-1405. Repealed. Laws 2015, LB 91, § 1.
- 54-1406. Repealed. Laws 2015, LB 91, § 1.
- 54-1407. Repealed. Laws 2015, LB 91, § 1.
- 54-1408. Repealed. Laws 2015, LB 91, § 1.
- 54-1409. Repealed. Laws 2015, LB 91, § 1.
- 54-1410. Repealed. Laws 2015, LB 91, § 1.
- 54-1411. Repealed. Laws 2015, LB 91, § 1.

54-1401 Repealed. Laws 2015, LB 91, § 1.

54-1402 Repealed. Laws 2015, LB 91, § 1.

54-1403 Repealed. Laws 2015, LB 91, § 1.

54-1404 Repealed. Laws 2015, LB 91, § 1.

54-1405 Repealed. Laws 2015, LB 91, § 1.

54-1406 Repealed. Laws 2015, LB 91, § 1.

54-1407 Repealed. Laws 2015, LB 91, § 1.

54-1408 Repealed. Laws 2015, LB 91, § 1.

54-1409 Repealed. Laws 2015, LB 91, § 1.

54-1410 Repealed. Laws 2015, LB 91, § 1.

54-1411 Repealed. Laws 2015, LB 91, § 1.

**ARTICLE 15
HOG CHOLERA**

(a) DESTRUCTION OF HOGS

Section

54-1501. Repealed. Laws 2015, LB 91, § 1.

54-1503. Repealed. Laws 2015, LB 91, § 1.

54-1505. Repealed. Laws 2015, LB 91, § 1.

54-1508. Repealed. Laws 2015, LB 91, § 1.

54-1509. Repealed. Laws 2015, LB 91, § 1.

54-1510. Repealed. Laws 2015, LB 91, § 1.

54-1511. Repealed. Laws 2015, LB 91, § 1.

54-1512. Repealed. Laws 2015, LB 91, § 1.

(b) CONTROL AND ERADICATION

54-1513. Repealed. Laws 2015, LB 91, § 1.

54-1514. Repealed. Laws 2015, LB 91, § 1.

54-1515. Repealed. Laws 2015, LB 91, § 1.

54-1516. Repealed. Laws 2015, LB 91, § 1.

54-1517. Repealed. Laws 2015, LB 91, § 1.

54-1518. Repealed. Laws 2015, LB 91, § 1.

54-1519. Repealed. Laws 2015, LB 91, § 1.

54-1520. Repealed. Laws 2015, LB 91, § 1.

54-1521. Repealed. Laws 2015, LB 91, § 1.

(c) SALES AND SHIPMENTS

54-1522. Repealed. Laws 2015, LB 91, § 1.

54-1523. Repealed. Laws 2015, LB 91, § 1.

(a) DESTRUCTION OF HOGS

54-1501 Repealed. Laws 2015, LB 91, § 1.

54-1503 Repealed. Laws 2015, LB 91, § 1.

54-1505 Repealed. Laws 2015, LB 91, § 1.

54-1508 Repealed. Laws 2015, LB 91, § 1.

54-1509 Repealed. Laws 2015, LB 91, § 1.

54-1510 Repealed. Laws 2015, LB 91, § 1.

54-1511 Repealed. Laws 2015, LB 91, § 1.

54-1512 Repealed. Laws 2015, LB 91, § 1.

(b) CONTROL AND ERADICATION

54-1513 Repealed. Laws 2015, LB 91, § 1.

54-1514 Repealed. Laws 2015, LB 91, § 1.

54-1515 Repealed. Laws 2015, LB 91, § 1.

54-1516 Repealed. Laws 2015, LB 91, § 1.

54-1517 Repealed. Laws 2015, LB 91, § 1.

54-1518 Repealed. Laws 2015, LB 91, § 1.

54-1519 Repealed. Laws 2015, LB 91, § 1.

54-1520 Repealed. Laws 2015, LB 91, § 1.

54-1521 Repealed. Laws 2015, LB 91, § 1.

(c) SALES AND SHIPMENTS

54-1522 Repealed. Laws 2015, LB 91, § 1.

54-1523 Repealed. Laws 2015, LB 91, § 1.

ARTICLE 17

LIVESTOCK DEALER LICENSING ACT

Section

54-1704. Livestock dealer; license; application; bond; form; renewal; fee; disposition.

54-1704 Livestock dealer; license; application; bond; form; renewal; fee; disposition.

No person as defined in the Nebraska Livestock Dealer Licensing Act as a livestock dealer shall:

(1) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without a valid and effective license issued by the Director of Agriculture under the provisions of this section. All applications for a livestock dealer license or renewal of such license shall be made on forms prescribed for that purpose by the State Veterinarian. The department may by rule and regulation prescribe additional information to be contained in such application. The application shall be filed annually with the department on or before October 1 of each year with the applicable fee of fifty dollars. The license fees collected as provided by the Nebraska Livestock Dealer Licensing Act shall be deposited in the state treasury, and by the State Treasurer placed in the Livestock Auction Market Fund. All money so collected shall be appropriated to the uses of the Department of Agriculture for the purpose of administering the provisions of the Nebraska Livestock Dealer Licensing Act;

(2)(a) Engage in the business of buying, selling, or otherwise dealing in livestock in this state without filing with the department, in connection with his or her application for a license, a fully executed duplicate of a valid and effective bond: (i) If he or she is registered and bonded under the provisions of the federal Packers and Stockyards Act of 1921, 7 U.S.C. 181 et seq., he or she shall file a statement in the form prescribed by the department evidencing that

he or she is maintaining a valid and effective bond or its equivalent under such act; or (ii) if he or she is not registered and bonded under the provisions of the federal Packers and Stockyards Act, he or she shall furnish in connection with his or her application for a license a fully executed duplicate of a valid and effective bond in the amount of five thousand dollars or such larger amount as may be specified by regulations promulgated by the department. (b) The bond shall contain the following conditions: (i) That the principal shall pay when due to the person or persons entitled thereto the purchase price of all livestock purchased by such principal for his or her own account or for the accounts of others and such principal shall safely keep and properly disburse all funds, if any, which come into his or her hands for the purpose of paying for livestock purchased for the accounts of others; (ii) that any person damaged by failure of the principal to comply with the condition clause of the bond may maintain suit to recover on the bond; and (iii) that at least thirty days' notice in writing shall be given to the department by the party terminating the bond; or

(3) Continue in the business of a dealer after his or her license or bond has expired, or has been suspended or revoked.

Source: Laws 1969, c. 447, § 4, p. 1494; Laws 1972, LB 1361, § 2; Laws 1983, LB 617, § 10; Laws 1997, LB 752, § 136; Laws 2016, LB909, § 8.

ARTICLE 19

MEAT AND POULTRY INSPECTION

(a) NEBRASKA MEAT AND POULTRY INSPECTION LAW

Section

54-1904. License; application; inspection; renewal; fee; suspension; when.

(b) STATE PROGRAM OF MEAT AND POULTRY INSPECTION

54-1916. Repealed. Laws 2012, LB 782, § 253.

(a) NEBRASKA MEAT AND POULTRY INSPECTION LAW

54-1904 License; application; inspection; renewal; fee; suspension; when.

It shall be unlawful for any person to operate or maintain any establishment unless first licensed by the department. A license may be obtained by application to the director upon forms prescribed by him or her for that purpose. The license shall authorize and restrict the licensee to the operation or operations requested in his or her application and approved by the director.

Application for a livestock establishment or a poultry establishment license shall be accompanied by a fee of fifty dollars for each establishment. A license application for a rendering establishment or for a pet feed establishment shall be accompanied by a fee of three hundred dollars for each establishment. Such fee shall be deposited in the state treasury and deposited in the Livestock Auction Market Fund.

No license shall be issued until an inspection of the facilities described in the license application is completed showing the proposed facilities to be in conformity with the Nebraska Meat and Poultry Inspection Law and the rules and regulations adopted and promulgated thereunder by the director.

Licenses shall be renewable annually on or before their expiration. No license shall be transferable with respect to licensee or location. The renewal fee shall be the same as the application fee for each license.

Each license shall by order be summarily suspended whenever an inspection reveals that conditions in any establishment constitute a menace to the public health and shall remain suspended until such conditions are corrected, subject to review by the department and courts as is provided for in the Nebraska Meat and Poultry Inspection Law.

In addition, the director may, upon ten days' notice in writing, suspend or revoke any license issued hereunder or refuse to renew the same for violation of any of the provisions of the Nebraska Meat and Poultry Inspection Law or any rule or regulation duly adopted and promulgated by the director. The notice shall specify in writing the charges relied on, and the hearings, disposition, and court review shall be as prescribed by the Nebraska Meat and Poultry Inspection Law.

Source: Laws 1969, c. 449, § 4, p. 1507; Laws 1982, LB 928, § 43; Laws 1983, LB 617, § 11; Laws 1988, LB 352, § 98; Laws 1997, LB 752, § 137; Laws 2016, LB909, § 9.

(b) STATE PROGRAM OF MEAT AND POULTRY INSPECTION

54-1916 Repealed. Laws 2012, LB 782, § 253.

ARTICLE 23

DOMESTICATED CERVINE ANIMAL ACT

Section

54-2306. Permit; application; fee; administrative fee; expiration of permit.

54-2320. Domesticated Cervine Animal Cash Fund; created; use; investment.

54-2306 Permit; application; fee; administrative fee; expiration of permit.

(1) On and after August 1, 1999, any person required to obtain a permit under section 54-2305 shall file an application with the department in the manner established by the department. Such application shall include:

(a) The name, residence, and place of business of the applicant;

(b) The exact description of the land upon which the domesticated cervine animal facility is to be located and the nature of the applicant's title to the land, whether in fee or under lease; and

(c) The kind and number of domesticated cervine animals authorized to be kept or reared in such facility.

(2) The department may by rule and regulation prescribe additional information to be contained in such application. The application shall be filed annually with the department on or before October 1 of each year. The annual fee for a domesticated cervine animal facility permit shall not be less than ten dollars nor more than two hundred dollars, as established by the department. Permittees not filing by October 1 shall be considered delinquent. The department may assess an administrative fee for delinquency, not to exceed one hundred dollars per month or a portion of a month, in addition to the permit fees. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees. Such permits shall expire on December 31 of the year of issuance.

Source: Laws 1999, LB 404, § 5; Laws 2016, LB909, § 10.

54-2320 Domesticated Cervine Animal Cash Fund; created; use; investment.

The department may assess and collect costs and fees for services provided, fees assessed, and expenses incurred pursuant to its responsibilities under the Domesticated Cervine Animal Act. All costs and fees assessed and collected pursuant to the act shall be remitted to the State Treasurer for credit to the Domesticated Cervine Animal Cash Fund, which fund is hereby created. The fund shall be utilized by the department for the purpose of carrying out the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1999, LB 404, § 19; Laws 2016, LB909, § 11.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 24**LIVESTOCK WASTE MANAGEMENT ACT**

Section

54-2428. National Pollutant Discharge Elimination System permit; construction and operating permit; application and modification; fees; Livestock Waste Management Cash Fund; created; use; investment; report.

54-2428 National Pollutant Discharge Elimination System permit; construction and operating permit; application and modification; fees; Livestock Waste Management Cash Fund; created; use; investment; report.

(1) Any person required to obtain a National Pollutant Discharge Elimination System permit for an animal feeding operation or a construction and operating permit for a livestock waste control facility shall file an application with the department accompanied by the appropriate fees in the manner established by the department. The application fee shall be established by the council with a maximum fee of two hundred dollars. For major modifications to an application or a permit, the fee shall equal the amount of the application fee.

(2) On or before March 1, 2006, and each year thereafter, each person who has a National Pollutant Discharge Elimination System permit or who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and a state operating permit, a construction and operating permit, or a construction approval issued pursuant to the Environmental Protection Act or the Livestock Waste Management Act shall pay a per head annual fee based on the permitted capacity identified in the permit for that facility. The department shall invoice each permittee by February 1, 2006, and February 1 of each year thereafter.

(3) The initial annual fee shall be: Beef cattle, ten cents per head; veal calves, ten cents per head; dairy cows, fifteen cents per head; swine larger than fifty-five pounds, four dollars per one hundred head or fraction thereof; swine less than fifty pounds, one dollar per one hundred head or fraction thereof; horses, twenty cents per head; sheep or lambs, one dollar per one hundred head or fraction thereof; turkeys, two dollars per one thousand head or fraction thereof; chickens or ducks with liquid manure facility, three dollars per one thousand head or fraction thereof; and chickens or ducks with other than liquid manure

facility, one dollar per one thousand head or fraction thereof. This fee structure may be reviewed in fiscal year 2007-08.

(4) Beginning in fiscal year 2007-08, the department shall annually review and adjust the fee structure in this section and section 54-2423 to ensure that fees are adequate to meet twenty percent of the program costs from the previous fiscal year. All fees collected under this section and sections 54-2423, 54-2435, and 54-2436 shall be remitted to the State Treasurer for credit to the Livestock Waste Management Cash Fund which is created for the purposes described in the Livestock Waste Management Act. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Livestock Waste Management Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) On or before January 1 of each year, the department shall submit electronically a report to the Legislature in sufficient detail to document all direct and indirect costs incurred in the previous fiscal year in carrying out the Livestock Waste Management Act, including the number of inspections conducted, the number of animal feeding operations with livestock waste control facilities, the number of animal feeding operations inspected, the size of the livestock waste control facilities, the results of water quality monitoring programs, and other elements relating to carrying out the act. The Appropriations Committee of the Legislature shall review the report in its analysis of executive programs in order to verify that the revenue generated from fees was used solely to offset appropriate and reasonable costs associated with carrying out the act.

Source: Laws 1998, LB 1209, § 8; Laws 1999, LB 870, § 10; R.S.Supp.,2002, § 54-2408; Laws 2004, LB 916, § 17; Laws 2006, LB 975, § 10; Laws 2009, First Spec. Sess., LB3, § 30; Laws 2012, LB782, § 84.

Cross References

Environmental Protection Act, see section 81-1532.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 26

COMPETITIVE LIVESTOCK MARKETS ACT

Section

- 54-2601. Act, how cited.
 54-2602. Terms, defined.
 54-2603. Repealed. Laws 2016, LB176, § 7.
 54-2604. Packers; acts prohibited.
 54-2604.01. Swine production contract; contents; cancellation; procedure; violations; Attorney General; duties; fine; Department of Agriculture; rules and regulations.
 54-2627.01. Preemption by federal Livestock Mandatory Reporting Act of 1999; legislative findings; purpose of act; director; duties.

54-2601 Act, how cited.

Sections 54-2601 to 54-2631 shall be known and may be cited as the Competitive Livestock Markets Act.

Source: Laws 1999, LB 835, § 1; Laws 2006, LB 856, § 25; Laws 2016, LB176, § 1.

54-2602 Terms, defined.

For purposes of the Competitive Livestock Markets Act:

(1) Animal unit means one head of cattle, three calves under four hundred fifty pounds, or five swine;

(2) Contract swine operation means a livestock operation in which swine owned or controlled by a packer are produced according to a written agreement that does not contain a confidentiality clause and that is agreed to by the packer and a person other than the packer who owns, leases, or holds a legal interest in the livestock operation;

(3) Department means the Department of Agriculture;

(4) Director means the Director of Agriculture or his or her designee;

(5) Livestock means live cattle or swine;

(6) Livestock operation means a location, including buildings, land, lots, yard corrals, and improvements, adapted to and utilized for the purpose of feeding, keeping, or otherwise providing for the care and maintenance of livestock;

(7) Packer means a person, or agent of such person, engaged in the business of slaughtering livestock in Nebraska in excess of one hundred fifty thousand animal units per year; and

(8) Person includes individuals, firms, associations, limited liability companies, and corporations and officers or limited liability company members thereof.

Source: Laws 1999, LB 835, § 2; Laws 2016, LB176, § 2.

54-2603 Repealed. Laws 2016, LB176, § 7.**54-2604 Packers; acts prohibited.**

(1) Except as provided in subsection (2) of this section, a packer shall not:

(a) Directly or indirectly own, control, or operate a livestock operation in this state; or

(b) Directly or indirectly be engaged in the ownership, keeping, or feeding of livestock, other than temporary ownership, keeping, and feeding not to exceed fourteen days which is necessary and incidental to, and immediately prior to, the process of slaughter.

(2) Subdivision (1)(b) of this section does not apply to the ownership, keeping, or feeding of swine by a packer at one or more contract swine operations in this state if the packer does not own, keep, or feed swine in this state except for the purpose of the slaughtering of swine or the manufacturing or preparation of carcasses of swine or goods originating from the carcasses in one or more processing facilities owned or controlled by the packer. Any agreement that establishes such a contract swine operation shall be subject to section 54-2604.01.

(3) For purposes of this section, indirectly own, control, or operate a livestock operation and indirectly be engaged in the ownership, keeping, or feeding of livestock includes:

(a) Receiving the net revenue or a share of the net revenue derived from a livestock operation or from a person who contracts for the care and feeding of livestock in this state, unless the packer is not involved in the management of the livestock operation;

(b) Assuming a morbidity or mortality production risk if the livestock are fed or otherwise maintained as part of a livestock operation in this state, unless the packer is not involved in the management of the livestock operation; and

(c) Loaning money for or guaranteeing, acting as a surety for, or otherwise financing a livestock operation in this state or a person who contracts for the care and feeding of livestock in this state. For purposes of this subdivision, loaning money for or guaranteeing, acting as a surety for, or otherwise financing a livestock operation does not include executing a contract for the purchase of livestock by a packer, including, but not limited to, forward contracts, marketing agreements, long-term arrangements, formula arrangements, other noncash sales arrangements, contracts that contain a ledger balance unsecured by collateral of the debtor or other price-risk-sharing arrangements, or providing an open account or loan unsecured by collateral of the debtor or a ledger balance or loan secured by collateral of the debtor so long as the amount due from the debtor does not exceed one million dollars.

Source: Laws 1999, LB 835, § 4; Laws 2016, LB176, § 3.

54-2604.01 Swine production contract; contents; cancellation; procedure; violations; Attorney General; duties; fine; Department of Agriculture; rules and regulations.

(1) For purposes of this section:

(a) Swine production contract means the agreement between a packer and a swine production contract grower which establishes a contract swine operation; and

(b) Swine production contract grower means the person who enters into a swine production contract with a packer to establish a contract swine operation.

(2) A swine production contract grower may cancel a swine production contract by mailing a cancellation notice to the packer not later than the later of:

(a) Three business days after the date on which the swine production contract is executed; or

(b) Any cancellation date specified in the swine production contract.

(3) A swine production contract shall clearly disclose:

(a) The right of the swine production contract grower to cancel the swine production contract;

(b) The method by which the swine production contract grower may cancel the swine production contract; and

(c) The deadline for canceling the swine production contract.

(4) A swine production contract shall contain on the first page a statement identified as the Additional Capital Investments Disclosure Statement, which shall conspicuously state that additional large capital investments may be required of the swine production contract grower during the term of the swine production contract. This subsection shall apply to any swine production contract entered into, amended, altered, modified, renewed, or extended after July 21, 2016.

(5) The forum for resolving any dispute among the parties to a swine production contract shall be a court of competent jurisdiction within the state

in which the principal part of the performance takes place under the swine production contract.

(6) Any swine production contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a swine production contract grower, prior to entering the contract, to decline to be bound by the arbitration provision.

(7) Any swine production contract grower that declines a requirement of arbitration pursuant to subsection (6) of this section has the right to seek to resolve any controversy that may arise under the swine production contract using arbitration if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

(8) Subsections (6) and (7) of this section shall apply to any swine production contract entered into, amended, altered, modified, renewed, or extended after July 21, 2016.

(9) A swine production contract shall not contain any obligations of confidentiality, or any other provisions, that limit a swine production contract grower from sharing and reviewing the swine production contract with anyone, including, but not limited to, his or her business partners, employees, or agents, his or her financial and legal advisors, and his or her spouse and family members.

(10) Whenever the Attorney General has reason to believe that a packer is violating this section, he or she shall commence an action in district court to enjoin the violation. The court, upon determination that such packer is in violation of this section, shall assess the packer a fine of not less than one thousand dollars for each day of violation.

(11) The Department of Agriculture may adopt and promulgate such rules and regulations regarding swine production contracts as are needed to further protect swine production contract growers from unfair business practices and coercion.

Source: Laws 2016, LB176, § 4.

54-2627.01 Preemption by federal Livestock Mandatory Reporting Act of 1999; legislative findings; purpose of act; director; duties.

(1) Sections 54-2607 to 54-2627 are preempted by the federal Livestock Mandatory Reporting Act of 1999, 7 U.S.C. 1635 to 1636h, when such federal act is in effect.

(2) The Legislature finds that the mandatory reporting of price and other terms in negotiated or contract procurement of livestock that has been in place under the federal Livestock Mandatory Reporting Act of 1999 is an important reform of livestock markets that contributes to greater market transparency, enhances the ability of livestock sellers to more competently and confidently market livestock, and lessens the existence of conditions under which market price manipulation and unfair preference or advantage in packer procurement practices can occur. It is a purpose of the Competitive Livestock Markets Act to provide for the continuation of mandatory price reporting for the benefit of Nebraska producers and protection of the integrity of livestock markets in Nebraska in the event of termination of the federal Livestock Mandatory Reporting Act of 1999 and its preemption of similar state price reporting laws as well as to provide for an orderly implementation of the state price reporting

system authorized by the Competitive Livestock Markets Act, should Congress fail to reauthorize the federal Livestock Mandatory Reporting Act of 1999.

(3)(a) If Congress does not reauthorize the federal Livestock Mandatory Reporting Act of 1999 before December 1, 2006, the director shall, on December 1, 2006, or as soon before or after as practicable, prepare a budget and an appropriation request from the General Fund, from the Competitive Livestock Markets Cash Fund, or from other cash funds under the control of the director, for submission to the Legislature in an amount sufficient to enable the department to carry out its duties under sections 54-2607 to 54-2627, and such sections shall become applicable on October 1, 2007.

(b) If, on or after December 1, 2006, Congress does not reauthorize the federal Livestock Mandatory Reporting Act of 1999, the director shall prepare such budget and appropriation request on or before a date that is twelve calendar months after the date such federal act expires or is terminated, and sections 54-2607 to 54-2627 shall become applicable on the first day of the calendar quarter that is eighteen months after the date such sections are not preempted by the federal act. No General Funds shall be appropriated for implementation of sections 54-2607 to 54-2627 after the date of commencement provided for in this section of reporting of price and other data regarding livestock transactions pursuant to sections 54-2613 and 54-2623. It is the intent of the Legislature that any General Funds appropriated for purposes of this section shall be reimbursed to the General Fund.

Source: Laws 2006, LB 856, § 27; Laws 2016, LB176, § 5.

ARTICLE 28

LIVESTOCK PRODUCTION

Section

- 54-2801. Legislative findings; act, how cited.
- 54-2802. Director of Agriculture; duties; designation of livestock friendly county; process; county board; powers.
- 54-2803. Grant program; applications; purposes.
- 54-2804. Livestock Growth Act Cash Fund; created; use; investment.
- 54-2805. Rules and regulations.

54-2801 Legislative findings; act, how cited.

(1) Sections 54-2801 to 54-2805 shall be known and may be cited as the Livestock Growth Act.

(2) The Legislature finds that livestock production has traditionally served a significant role in the economic vitality of rural areas of the state and in the state's overall economy and that the growth and vitality of the state's livestock sector are critical to the continued prosperity of the state and its citizens. The Legislature further finds that a public interest exists in assisting efforts of the livestock industry and rural communities to preserve and enhance livestock development as an essential element of economic development and that a need exists to provide aid, resources, and assistance to rural communities and counties seeking opportunities in the growth of livestock production. It is the intent of the Legislature to seek reasonable means to nurture and support the livestock sector of this state.

Source: Laws 2003, LB 754, § 1; Laws 2015, LB175, § 1.

54-2802 Director of Agriculture; duties; designation of livestock friendly county; process; county board; powers.

(1) The Director of Agriculture shall establish a process, including criteria and standards, to recognize and assist efforts of counties to maintain or expand their livestock sector. A county that meets the criteria may apply to the director to be designated a livestock friendly county. A county may remove itself from the process at any time. Such criteria and standards may include, but are not limited to, the following factors: Consideration of the diversity of activities currently underway or being initiated by counties; a formal expression of interest by a county board, by a duly enacted resolution following a public hearing, in developing the livestock production and processing sectors of such county's economy; an assurance that such county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county; flexible and individual treatment allowing each county to design its own development program according to its own timetable; and a commitment to compliance with the Livestock Waste Management Act.

(2) The designation of any county or counties as a livestock friendly county shall not be an indication nor shall it suggest that any county that does not seek or obtain such a designation is not friendly to livestock production.

(3) In order to assist any county with information and technology, the Department of Agriculture shall establish a resource data base to provide, upon written request of the county zoning authority or county board, information sources that may be useful to the county in evaluating and crafting livestock facility conditional use permits that meet the objectives of the county and the livestock producer applicant.

(4) Nothing in this section shall prohibit or prevent any county board from adopting a resolution that designates the county a livestock friendly county.

Source: Laws 2003, LB 754, § 2; Laws 2015, LB175, § 2.

Cross References

Livestock Waste Management Act, see section 54-2416.

54-2803 Grant program; applications; purposes.

(1) From funds available in the Livestock Growth Act Cash Fund, the Director of Agriculture may administer a grant program to assist counties designated by the director as livestock friendly counties pursuant to section 54-2802 in livestock development planning and associated public infrastructure improvements. The director shall receive applications submitted by county boards or county planning authorities for assistance under this section and award grants for any of the following eligible purposes:

(a) Strategic planning to accommodate and encourage investment in livestock production, including one or more of the following activities:

(i) Reviewing zoning and land-use regulations;

(ii) Evaluating workforce availability, educational, institutional, public infrastructure, marketing, transportation, commercial service, natural resource, and agricultural assets, and needs of the county and surrounding areas to support livestock development;

(iii) Identifying livestock development goals and opportunities for the county;

(iv) Identifying and evaluating a location or locations suitable for placement of livestock production facilities; and

(v) Developing a marketing strategy to promote and attract investment in new or expanded livestock production and related livestock service and marketing businesses within the county; and

(b) Improvements to public infrastructure to accommodate one or more livestock development projects, including modifications to roads and bridges, drainage, and sewer and water systems. An application for a grant under this subdivision shall identify specific infrastructure improvements relating to a project for the establishment, expansion, or relocation of livestock production to which the grant funds would be applied and shall include a copy of the county conditional use permit issued for the livestock operation if required by county zoning regulations.

(2) A grant award under subdivision (1)(a) of this section shall not exceed fifteen thousand dollars. A grant award under subdivision (1)(b) of this section shall not exceed one-half of the unobligated balance of the Livestock Growth Act Cash Fund or two hundred thousand dollars, whichever is less.

Source: Laws 2015, LB175, § 3.

54-2804 Livestock Growth Act Cash Fund; created; use; investment.

The Livestock Growth Act Cash Fund is created. The fund may be used to carry out the Livestock Growth Act. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2015, LB175, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

54-2805 Rules and regulations.

The Department of Agriculture may adopt and promulgate rules and regulations to carry out the Livestock Growth Act.

Source: Laws 2015, LB175, § 5.

CHAPTER 55

MILITIA

Article.

1. Military Code. 55-120 to 55-181.
4. Nebraska Code of Military Justice. 55-401 to 55-481.
6. Commission on Military and Veteran Affairs. 55-601 to 55-606.
7. Consumer Protection and Civil Relief. 55-701 to 55-704.

ARTICLE 1

MILITARY CODE

Section

- 55-120. National Guard; Military Department; officers; personnel; rank.
- 55-125. Adjutant General; assistants; qualifications.
- 55-126. Adjutant General; assistants; duties; bond or insurance; salary.
- 55-157. Militia; active duty; personnel; compensation; travel expenses; health insurance reimbursement.
- 55-160. Military leave of absence without loss of pay; limitations.
- 55-161. Military leave of absence; rights of officer or employee.
- 55-181. Department; contract with Nebraska Wing of Civil Air Patrol; purposes; funding agreement.

55-120 National Guard; Military Department; officers; personnel; rank.

The Military Department shall consist of the Adjutant General in the minimum grade of lieutenant colonel, one deputy adjutant general with a minimum grade of colonel, or a civilian deputy director, one assistant director for Nebraska Emergency Management Agency affairs, and such other officers and enlisted personnel in the number and grade as prescribed by the United States Department of the Army and Department of the Air Force personnel documents provided to the National Guard or as otherwise authorized.

Source: Laws 1917, c. 205, § 3, p. 483; Laws 1919, c. 121, § 1, p. 288; C.S.1922, § 3304; Laws 1929, c. 189, § 19, p. 661; C.S.1929, § 55-124; R.S.1943, § 55-139; Laws 1953, c. 188, § 17, p. 598; Laws 1963, c. 321, § 2, p. 975; R.R.S.1943, § 55-139; Laws 1969, c. 459, § 18, p. 1587; Laws 1974, LB 983, § 3; Laws 1996, LB 43, § 10; Laws 2010, LB550, § 2; Laws 2014, LB806, § 1.

55-125 Adjutant General; assistants; qualifications.

(1) The Adjutant General shall appoint a deputy adjutant general or a civilian deputy director. An officer appointed as a deputy adjutant general shall hold the minimum grade of colonel as provided in section 55-120. No person shall be eligible for appointment and service as the deputy adjutant general unless he or she is an active member of the Nebraska National Guard. The deputy adjutant general shall have had at least four years of commissioned service in the Nebraska National Guard immediately prior to appointment and shall have attained at least the grade of lieutenant colonel and be eligible for promotion to colonel prior to his or her appointment as deputy adjutant general.

(2) The chief of the National Guard Bureau shall appoint a United States property and fiscal officer. The officer shall hold the minimum grade of colonel. The Governor shall nominate one or more officers for the position of United States property and fiscal officer after consultation with the Adjutant General. All nominees shall have attained at least the grade of lieutenant colonel and be eligible for promotion to colonel prior to his or her nomination. The United States property and fiscal officer may appoint, with the approval of the Adjutant General, one or more assistant United States property and fiscal officers, each with the minimum grade of captain. The United States property and fiscal officer and each assistant United States property and fiscal officer shall be appointed from among the active officers of the Nebraska National Guard and shall have been commissioned officers in the Nebraska National Guard for a period of at least four years immediately prior to appointment.

(3) The Adjutant General shall appoint all additional officers, clerks, and caretakers as may be required.

Source: Laws 1917, c. 205, § 4, p. 485; Laws 1919, c. 121, § 2, p. 290; Laws 1921, c. 234, § 1, p. 833; C.S.1922, § 3305; C.S.1929, § 55-125; R.S.1943, § 55-143; Laws 1953, c. 188, § 20, p. 600; Laws 1963, c. 321, § 3, p. 976; R.R.S.1943, § 55-143; Laws 1969, c. 459, § 23, p. 1589; Laws 1974, LB 983, § 5; Laws 1976, LB 614, § 1; Laws 2004, LB 963, § 2; Laws 2010, LB550, § 4; Laws 2014, LB806, § 2.

55-126 Adjutant General; assistants; duties; bond or insurance; salary.

The deputy adjutant general or civilian deputy director shall aid the Adjutant General by the performance of such duties as may be assigned by the Adjutant General. In case of absence or inability of the Adjutant General, the deputy adjutant general or civilian deputy director shall perform all or such portion of the duties of the Adjutant General as the latter may expressly delegate to him or her. If the Adjutant General has appointed a civilian deputy director the Adjutant General may, in the event of the Adjutant General's absence, delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska National Guard who shall hold the minimum grade of colonel. In the case of absence of both the Adjutant General and the deputy adjutant general or civilian deputy director, the Adjutant General may delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska National Guard who shall hold the minimum grade of colonel and the Adjutant General may delegate the authority to perform state duties to any member of his or her appointed executive staff. The deputy adjutant general or civilian deputy director shall be bonded or insured as required by section 11-201. The deputy adjutant general or civilian deputy director shall receive such salary as the Adjutant General shall direct, payable biweekly. Such salary for the deputy adjutant general shall not exceed the annual pay and allowances of regular military officers of equal rank and time in service, except that when funds made available by the federal government are in excess of the amount payable as directed by the Adjutant General, the excess shall be used to reduce the amount required to be paid by the State of Nebraska. Except when called or ordered to active duty of the United States under 10 U.S.C. in support of missions authorized by the President of the United States or Secretary of Defense, the deputy adjutant general shall not be required to take either paid or unpaid leave, or a leave of absence or a

reduction in salary, when performing his or her federal duties whether or not under federal orders.

Source: Laws 1917, c. 205, § 4, p. 486; Laws 1919, c. 121, § 2, p. 290; Laws 1921, c. 234, § 1, p. 834; C.S.1922, § 3305; C.S.1929, § 55-125; R.S.1943, § 55-144; Laws 1947, c. 196, § 2, p. 639; Laws 1951, c. 182, § 2, p. 685; Laws 1963, c. 321, § 4, p. 976; R.R.S.1943, § 55-144; Laws 1969, c. 459, § 24, p. 1589; Laws 1978, LB 653, § 16; Laws 1993, LB 170, § 1; Laws 2004, LB 884, § 28; Laws 2004, LB 963, § 3; Laws 2010, LB550, § 5; Laws 2014, LB806, § 3.

55-157 Militia; active duty; personnel; compensation; travel expenses; health insurance reimbursement.

(1) When an active or retired officer or enlisted person of the National Guard is ordered to active service of the state by the Governor or Adjutant General, he or she shall receive compensation as provided in this subsection. For service during a disaster or emergency, an officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States and shall be reimbursed for travel expenses in accordance with the Joint Federal Travel Regulations. For advice, counsel, duties, or service to the Governor or Adjutant General, an officer or enlisted person may, at the discretion of the Adjutant General, be in a pay or nonpay status. If in a pay status, the officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States and shall be reimbursed for travel expenses in accordance with the Joint Federal Travel Regulations.

(2) For any period of active service of the state in excess of thirty consecutive days, performed at the order of the Governor or Adjutant General or at the request of the federal government, a state, or other agency or entity, an officer or enlisted person shall be entitled to reimbursement of one hundred percent of the cost of his or her privately purchased health insurance or up to one hundred two percent of the cost of his or her employer-provided health insurance. The officer or enlisted person shall provide evidence of payment and shall be reimbursed to the extent that evidence of payment can be provided. The reimbursement for health insurance shall be treated as an allowance but may be paid separately once received by the State of Nebraska from the federal government, a state, or other agency or entity requesting the services of the officer or enlisted person. The State of Nebraska will not pay or advance the cost of such health insurance reimbursement for the federal government, a state, or other agency or entity. The State of Nebraska is exempt from the requirement under this subsection to reimburse officers and enlisted persons for their health insurance costs.

Source: Laws 1909, c. 90, § 44, p. 380; R.S.1913, § 3943; C.S.1922, § 3343; C.S.1929, § 55-170; R.S.1943, § 55-184; Laws 1953, c. 188, § 33, p. 606; R.R.S.1943, § 55-184; Laws 1969, c. 459, § 55, p. 1599; Laws 1984, LB 934, § 5; Laws 1990, LB 930, § 2; Laws 2004, LB 963, § 4; Laws 2012, LB1141, § 1.

55-160 Military leave of absence without loss of pay; limitations.

(1) All employees, including elected officials of the State of Nebraska, or any political subdivision thereof, who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, and Coast Guard Reserve, shall be entitled to a military leave of absence from their respective duties, without loss of pay, when employed with or without pay under the orders or authorization of competent authority in the active service of the state or of the United States. Members who normally work or are normally scheduled to work one hundred fifty-nine hours or more in three consecutive weeks and scheduled to work twenty-four hour shifts shall receive a military leave of absence of one hundred sixty-eight hours each calendar year. Members who normally work or are normally scheduled to work one hundred twenty hours or more but less than one hundred fifty-nine hours in three consecutive weeks shall receive a military leave of absence of one hundred twenty hours each calendar year. Members who normally work or are normally scheduled to work less than one hundred twenty hours in three consecutive weeks shall receive a military leave of absence each calendar year equal to the number of hours they normally work or would normally be scheduled to work, whichever is greater, in three consecutive weeks. Such military leave of absence may be taken in hourly increments and shall be in addition to the regular annual leave of the persons named in this section.

(2) When the Governor of this state declares that a state of emergency exists and any of the persons named in this section are ordered to active service of the state, a state of emergency leave of absence will be granted until such member is released from active service of the state by competent authority. A military leave of absence shall not be used during a state of emergency declared by the Governor. Other forms of leave may be granted. During a state of emergency leave of absence because of the call of the Governor, any official or employee subject to this section shall receive his or her normal salary or compensation minus the state active duty base pay he or she receives in active service of the state. Governmental officers serving a term of office shall receive their compensation as provided by law.

Source: Laws 1947, c. 198, § 1, p. 642; Laws 1953, c. 188, § 26, p. 602; R.R.S.1943, § 55-156.01; Laws 1969, c. 459, § 58, p. 1600; Laws 2002, LB 722, § 3; Laws 2018, LB1003, § 1.
Effective date July 19, 2018.

55-161 Military leave of absence; rights of officer or employee.

(1) The parts of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Chapter 43, listed in subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence and effective as of January 1, 2001, are adopted as Nebraska law. This section shall be applicable to all persons employed in the State of Nebraska and shall include all officers and permanent employees, including teachers employed on a one-year contract basis and elected officials, of the state or of any of its agencies or political subdivisions. The Legislature hereby adopts:

(a) Section 4301(a) — Purposes;

(b) Section 4302 — Relation to other law and plans or agreements;

(c) Section 4303(2),(4),(7) through (13),(15), and (16) and those portions of subparagraph (3) not relating to employment in a foreign country — Definitions;

(d) Section 4304 — Character of service;

(e) Section 4311 — Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited;

(f) Section 4312 — Reemployment rights of persons who serve in the uniformed services;

(g) Section 4313 with the exception of that portion of subparagraph (a) dealing with reemployment of federal employees — Reemployment positions;

(h) Section 4316 — Rights, benefits, and obligations of persons absent from employment for service in a uniformed service;

(i) Section 4317 — Health plans; and

(j) Section 4318 — Employee pension benefit plans.

(2) This section applies to all members performing duty in active service of the state and to any person employed in Nebraska who is a member of the National Guard of another state and who is called into active service by the Governor of that state.

(3) The proper appointing authority or employer may make a temporary appointment to fill any vacancy created by the absence of an officer or employee pursuant to this section. Such officer or employee shall not be discharged from his or her former or new position without justifiable cause within one year after reinstatement.

(4) The Commissioner of Labor shall enforce this section.

(5) The Adjutant General shall perform duties assigned to the Secretary of Defense, Secretary of Veterans Affairs, or Secretary of Labor in the portions of 38 U.S.C. Chapter 43 adopted under this section.

Source: Laws 1951, c. 183, § 1, p. 686; Laws 1953, c. 189, § 1, p. 609; R.R.S.1943, § 55-156.02; Laws 1969, c. 459, § 59, p. 1600; Laws 1969, c. 751, § 8, p. 2828; Laws 1972, LB 1510, § 1; Laws 2002, LB 722, § 4; Laws 2016, LB753, § 1.

55-181 Department; contract with Nebraska Wing of Civil Air Patrol; purposes; funding agreement.

The Military Department may contract with the Nebraska Wing of the Civil Air Patrol, the civilian auxiliary of the United States Air Force, for the following purposes:

(1) To encourage and aid American citizens in the contribution of their efforts, services, and resources in the development of aviation and the maintenance of aerospace supremacy;

(2) To encourage and develop, by example, the voluntary contribution of private citizens to the public welfare;

(3) To provide aviation and aerospace education and training;

(4) To foster and encourage civil aviation in local communities throughout the state; and

(5) To assist in meeting emergencies within the state.

The Division of Aeronautics of the Department of Transportation and the Military Department shall enter into an agreement that will continue the funding of the contract under this section from the Aeronautics Cash Fund in an amount equal to the appropriation by the Legislature for such purpose.

Source: Laws 1976, LB 847, § 1; R.S.1943, (1997), § 3-125.01; Laws 2003, LB 69, § 1; Laws 2017, LB339, § 178.

ARTICLE 4

NEBRASKA CODE OF MILITARY JUSTICE

Section

- 55-401. Code, how cited.
- 55-402. Terms, defined.
- 55-416. Commanding officer's nonjudicial punishment.
- 55-418. Court-martial; jurisdiction.
- 55-419. Court-martial; jurisdiction; not exclusive.
- 55-427. Statute of limitations.
- 55-428. Witness; failure to appear; procedure.
- 55-452. Attempt to commit an offense.
- 55-480. Disorders and prejudice of good order and discipline.
- 55-481. Summarized administrative discipline for minor offenses; procedure; appeal; notice; contents.

55-401 Code, how cited.

Sections 55-401 to 55-481 shall be known and may be cited as the Nebraska Code of Military Justice.

Source: Laws 1969, c. 458, § 1, p. 1553; Laws 2016, LB754, § 7.

55-402 Terms, defined.

As used in the Nebraska Code of Military Justice, unless the context otherwise requires:

(1) Military forces shall mean the National Guard, also called the Nebraska National Guard and also hereinafter referred to as the Army National Guard and Air National Guard, and in addition thereto, the militia when called into active service of this state;

(2) Officer shall mean a commissioned officer including a commissioned warrant officer;

(3) Superior officer shall mean an officer superior in rank or command;

(4) Enlisted person shall mean any person who is serving in an enlisted grade in any military force;

(5) Accuser shall mean a person who signs and swears to charges, to any person who directs that charges nominally be signed and sworn by another, and to any other person who has an interest other than an official interest in prosecution of the accused;

(6) Military judge shall mean an official of court-martial detailed in accordance with section 55-422; and

(7) Code shall mean the Nebraska Code of Military Justice.

Source: Laws 1969, c. 458, § 2, p. 1553; Laws 2016, LB754, § 8.

55-416 Commanding officer's nonjudicial punishment.

(1) Under such regulations as the Governor may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers exercising command authorized to exercise those powers, the applicability of the code to an accused who demands trial by court-martial, but punishment may not be imposed upon any member of the military forces under this section if the member has, before the imposition of such punishment, demanded trial by court-martial in lieu of such punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized hereunder.

(2) Subject to subsection (1) of this section, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(a) Upon officers of his or her command:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than ten consecutive days; or

(ii) If imposed by a general officer in command, arrest in quarters for not more than fourteen consecutive days; forfeiture of not more than one-half of one month's pay per month for two months; restriction to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days; or detention of not more than one-half of one month's pay per month for three months; and

(b) Upon other personnel of his or her command:

(i) Correctional custody for not more than seven consecutive days;

(ii) Forfeiture of not more than seven days' pay;

(iii) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(iv) Extra duties, including fatigue or other duties, for not more than ten consecutive days;

(v) Restriction to certain specified limits, with or without suspension from duty, for not more than ten consecutive days;

(vi) Detention of not more than fourteen days' pay; or

(vii) If imposed by an officer of the grade of major or above, correctional custody for not more than fourteen consecutive days; forfeiture of not more than one-half of one month's pay per month for two months; reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades; extra duties, including fatigue or other duties, for not more than fourteen consecutive days; restrictions to certain specified limits, with or without suspension from duty, for not more than fourteen consecutive days; or detention of not more than one-half of one month's pay per month for three months.

Detention of pay shall be for a stated period, but if the offender's term of service expires earlier, the detention shall terminate upon that expiration. No

two or more of the punishments of arrest in quarters, correctional custody, extra duties, and restriction may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment. In addition, forfeiture of pay may not be combined with detention of pay without an apportionment. For the purposes of this subsection, correctional custody is the physical restraint of a person during duty or nonduty hours and may include extra duties, fatigue duties, or hard labor. If practicable, correctional custody will not be served in immediate association with persons awaiting trial or held in confinement pursuant to trial by court-martial.

(3) An officer in charge may impose upon enlisted members assigned to the unit of which he or she is in charge such of the punishments authorized under subsection (2)(b) of this section as the Governor may specifically prescribe by regulation.

(4) The officer who imposes the punishment authorized in subsection (2) of this section, or his or her successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture imposed under subsection (2) of this section, whether or not executed. In addition, he or she may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He or she may also mitigate reduction in grade to forfeiture or detention of pay. When mitigating:

(a) Arrest in quarters to restriction;

(b) Confinement on bread and water or diminished rations to correctional custody;

(c) Correctional custody or confinement on bread and water or diminished rations to extra duties or restriction, or both; or

(d) Extra duties to restriction, the mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating forfeiture of pay to detention of pay, the amount of the detention shall not be greater than the amount of the forfeiture. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

(5) A person punished under this section who considers his or her punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (4) of this section by the officer who imposed the punishment. Before acting on an appeal from a punishment of:

(a) Arrest in quarters for more than seven days;

(b) Correctional custody for more than seven days;

(c) Forfeiture of more than seven days' pay;

(d) Reduction of one or more pay grades from the fourth or a higher pay grade;

(e) Extra duties for more than ten days;

(f) Restriction for more than ten days; or

(g) Detention of more than fourteen days' pay, the authority who is to act on the appeal shall refer the case to a judge advocate for consideration and advice, and may so refer the case upon appeal from any punishment imposed under subsection (2) of this section.

(6) The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) The Governor may, by regulation, prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

(8) Any punishment authorized by this section which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean consecutive active service days.

Source: Laws 1969, c. 458, § 16, p. 1557; Laws 2016, LB754, § 9.

55-418 Court-martial; jurisdiction.

A court-martial as defined in the code shall have jurisdiction to try persons subject to the code for any offense defined and made punishable by the code and may, under such limitations and regulations as the Governor may prescribe, adjudge any of the following penalties:

(1) Confinement at hard labor for not more than six months;

(2) Hard labor without confinement for not more than three months;

(3) Forfeitures or detentions of pay not exceeding two-thirds pay per month for six months;

(4) Bad conduct discharge;

(5) Dishonorable discharge;

(6) Reprimand; or

(7) Reduction of noncommissioned officers to the ranks, and to combine any two or more of such punishments in the sentence imposed.

Source: Laws 1969, c. 458, § 18, p. 1562; Laws 2016, LB754, § 11.

55-419 Court-martial; jurisdiction; not exclusive.

The jurisdiction of a court-martial is limited to the trial of persons accused of military offenses as described in the code. Persons subject to the code who are accused of offenses cognizable by the civil courts of this state or any other state where the military forces are present in that state may, upon accusation, be promptly surrendered to civil authorities for disposition, urgencies of the service considered. If the person subject to the code is accused of both a military offense under the code and a civil offense by the civil authorities, he or she shall be released to the civil authorities if the crime for which he or she is

accused by the civil authorities carries a penalty in excess of the maximum penalty provided by the code.

Source: Laws 1969, c. 458, § 19, p. 1562; Laws 2016, LB754, § 12.

55-427 Statute of limitations.

A person charged with any offense is not liable to be tried by court-martial or punished under section 55-416 or 55-481 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising court-martial jurisdiction as set forth in the code.

Source: Laws 1969, c. 458, § 27, p. 1566; Laws 2016, LB754, § 13.

55-428 Witness; failure to appear; procedure.

(1) Any person not subject to the code who:

(a) Has been duly subpoenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board;

(b) Has been duly paid or tendered the fees of a witness at the rates allowed to witnesses attending the district courts of the State of Nebraska and mileage at the rate provided in section 81-1176 for state employees; and

(c) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce, is guilty of a Class II misdemeanor.

(2) The Attorney General of Nebraska, upon the certification of the facts to him or her by the military court, commission, or board shall file an information against and prosecute any person violating this section.

(3) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

Source: Laws 1969, c. 458, § 28, p. 1566; Laws 1977, LB 39, § 55; Laws 1981, LB 204, § 97; Laws 2016, LB754, § 14.

55-452 Attempt to commit an offense.

(1) An act done with specific intent to commit an offense under the code, amounting to more than mere preparation and tending, even though failing, to effect its commission is an attempt to commit that offense.

(2) Any person subject to the code who attempts to commit any offense punishable by the code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(3) Any person subject to the code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

Source: Laws 1969, c. 458, § 52, p. 1574; Laws 2016, LB754, § 15.

55-480 Disorders and prejudice of good order and discipline.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken

cognizance of by a court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

Source: Laws 1969, c. 458, § 80, p. 1580; Laws 2015, LB268, § 31; Referendum 2016, No. 426.

Note: The changes made to section 55-480 by Laws 2015, LB 268, section 31, have been omitted because of the vote on the referendum at the November 2016 general election.

55-481 Summarized administrative discipline for minor offenses; procedure; appeal; notice; contents.

(1) Any commanding officer, with regard to enlisted members, and any general officer, with regard to officers, may issue summarized administrative discipline for minor offenses. A minor offense shall be any offense which, under the Uniform Code of Military Justice of the United States, 10 U.S.C. chapter 47, or other military or civilian law or military custom, has a maximum penalty of confinement for one year or less.

(2) In accordance with subsection (1) of this section, any commanding officer or general officer, after consultation with a duly appointed judge advocate in the Nebraska National Guard, may impose one or more of the following disciplinary actions for minor offenses without the intervention of a court-martial:

(a) Upon officers:

(i) Restriction to certain specified limits, with or without suspension from duty, for up to seven days; or

(ii) Forfeiture of pay for up to one day; and

(b) Upon enlisted personnel:

(i) Restriction to certain specified limits, with or without suspension from duty, for not more than seven consecutive days;

(ii) Forfeiture of pay for up to one day; or

(iii) Extra duty not to exceed ten days.

(3) Consecutive summarized administrative discipline for the same offense or incident is not authorized.

(4) The officer who imposes the summarized administrative discipline as provided in subsection (2) of this section, or a successor in command, may, at any time, suspend probationally any part or amount of the unexecuted discipline imposed. In addition, the officer or successor in command may, at any time, remit or mitigate any part or amount of the unexecuted discipline imposed and may set aside in whole or in part the discipline, whether executed or unexecuted, and restore all rights, privileges, and property affected.

(5) A person disciplined under this section who considers his or her discipline unjust or disproportionate to the offense may, within twenty-four hours of the announcement of findings and through the proper channel, appeal to the next superior authority or general officer. The appeal and record of the hearing shall be promptly forwarded and decided, but the person disciplined may in the meantime be required to undergo the discipline adjudged. The superior authority or general officer may exercise the same powers with respect to the discipline imposed as may be exercised under subsection (4) of this section by the officer who imposed the discipline. No appeal may be taken beyond the Adjutant General, and if the Adjutant General proposed the discipline under

this section, the person may request reconsideration by the Adjutant General. Only one appeal or request for reconsideration shall be permitted.

(6) The imposition and enforcement of summarized administrative discipline under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission and not properly punishable under this section. The fact that summarized administrative discipline has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

(7) Any summarized administrative discipline authorized by this section shall be executed within one year of the imposition of the discipline during any one or more periods of military duty.

(8) The enlisted member or officer shall be given twenty-four hours written notice of the intent to impose summarized administrative discipline under this section. Such notice shall include:

- (a) The offense committed;
- (b) A brief, written summary of the information upon which the allegations are based and notice that the enlisted member or officer may examine the statements and evidence;
- (c) The possible disciplinary actions;
- (d) An explanation that the rules of evidence do not apply at the hearing and that any testimony or evidence deemed relevant may be considered;
- (e) The date, time, and location of the hearing; and
- (f) The enlisted member's or officer's rights, which shall include:
 - (i) Twenty-four hour notice of the hearing and twenty-four hours to prepare for the hearing, which time shall run concurrently;
 - (ii) The right to appear personally before the officer proposing the summarized administrative discipline or the officer's delegate if the officer proposing the discipline is unavailable. The officer proposing such discipline must render findings based upon the record prepared by the delegate;
 - (iii) To be advised that he or she shall not be compelled to give evidence against himself or herself;
 - (iv) Notice as prescribed in this subsection;
 - (v) Examining the evidence presented or considered by the officer proposing the discipline;
 - (vi) Presenting matters in defense, extenuation, and mitigation orally, in writing, or both;
 - (vii) Presenting witnesses that are reasonably available. A witness is not reasonably available if his or her presence would unreasonably delay the hearing, there is a cost to the government, or military duty precludes a military member's participation in the opinion of such military member's commander;
 - (viii) Consultation prior to the hearing with a trial defense attorney appointed in the Nebraska National Guard, if he or she is reasonably available. A trial defense attorney is not reasonably available if his or her presence would unreasonably delay the hearing, there is a cost to the government to make him or her available, or other military duties or civilian employment precludes such trial defense attorney's participation, in the opinion of such trial defense

attorney. Consultation with the trial defense attorney may be through personal contact, telephonic communication, or other electronic means available at no cost to the government;

(ix) To have an open hearing; and

(x) To waive in writing or at the hearing any or all of the enlisted member's or officer's rights.

(9) After considering the evidence, the officer proposing the discipline shall (a) announce the findings in writing with regard to each allegation, (b) inform the enlisted member or officer of the discipline imposed, if any, and (c) advise the enlisted member or officer of his or her right to appeal.

(10) The Adjutant General may adopt and promulgate regulations or policies to implement this section.

Source: Laws 2016, LB754, § 10.

ARTICLE 6

COMMISSION ON MILITARY AND VETERAN AFFAIRS

Section

55-601. Commission on Military and Veteran Affairs; created; members; terms; vacancy.

55-602. Commission on Military and Veteran Affairs; powers and duties.

55-603. Commission on Military and Veteran Affairs; officers; meetings; records.

55-604. Commission on Military and Veteran Affairs; expenses.

55-605. Military affairs liaison; duties.

55-606. Report; contents.

55-601 Commission on Military and Veteran Affairs; created; members; terms; vacancy.

(1) The Commission on Military and Veteran Affairs is created. The commission shall consist of the following voting members:

(a) The Director of Economic Development;

(b) The Adjutant General or his or her designee;

(c) The Director of Veterans' Affairs; and

(d) Three residents of the State of Nebraska, one from each congressional district. At least one of the three residents shall have current or prior military experience and at least one shall have a background in business.

(2) The commission shall have the following nonvoting, ex officio members:

(a) The chair of the State Committee of Employer Support of the Guard and Reserve;

(b) The commander of the 55th Wing of the Air Combat Command or his or her designee;

(c) The commander of the United States Strategic Command or his or her designee; and

(d) The commander of the 557th Weather Wing of the United States Air Force or his or her designee.

(3) The members of the commission described in subdivision (1)(d) of this section shall be appointed by the Governor. The Governor shall designate the initial terms of the members described in subdivision (1)(d) of this section so that one member serves for a term of two years, one member serves for a term

of three years, and one member serves for a term of four years. Succeeding appointments shall be for terms of four years and shall be made in the same manner as the original appointments. The terms of the members shall begin on October 1 of the year in which they are appointed unless appointed to fill a vacancy. Appointments to fill a vacancy, occurring other than by the expiration of a term of office, shall be made for the unexpired term of the member whose office is vacated.

Source: Laws 2016, LB754, § 1.

55-602 Commission on Military and Veteran Affairs; powers and duties.

The Commission on Military and Veteran Affairs shall have the authority to receive and administer funds from state, federal, and other sources. Additionally, the commission shall:

- (1) Address matters of military significance to Nebraska;
- (2) Maintain a cooperative and constructive relationship between state agencies and the military and veteran entities in Nebraska as necessary to ensure coordination and implementation of unified and comprehensive statewide strategies involved with, or affected by, the military;
- (3) Focus on and, when designated, serve as lead agency on:
 - (a) Defense economic adjustment and transition information and activities;
 - (b) Exploring operating costs, missions, and strategic value of federal military installations located in the state;
 - (c) Employment issues for communities that depend on defense bases and defense-related businesses; and
 - (d) Assistance provided to communities that have experienced a defense-related closure or realignment;
- (4) Advise the Governor, the Legislature, and other appropriate governmental officials on all matters in which the military services and the state have mutual interests, needs, and concerns;
- (5) Promote and optimize state and United States Department of Defense initiatives that will improve the military value of the Nebraska National Guard, active and reserve military force structure and installations, and the quality of life for military personnel residing in Nebraska;
- (6) Partner with local communities to conduct ongoing analyses of current and proposed changes to the mission, military force structure, and alignment of the United States Department of Defense;
- (7) Recommend state, federal, and local economic development projects to promote, foster, and support economic progress through a military presence in Nebraska;
- (8) Assist the private sector in developing derivative investments, employment, and educational opportunities associated with high technology programs and activities at Nebraska's military installations;
- (9) Partner with local communities to develop methods to improve private and public employment opportunities for former members of the military and their families residing in this state; and

(10) Identify and support ways to provide sound infrastructure, adequate housing, education, and transition support into Nebraska's workforce for military members and their families, retired military personnel, and veterans.

Source: Laws 2016, LB754, § 2.

55-603 Commission on Military and Veteran Affairs; officers; meetings; records.

The Commission on Military and Veteran Affairs shall elect a chairperson, vice-chairperson, and secretary from among its members.

The commission shall meet two times each year at such times and places as shall be determined by the chairperson and shall keep a record of its proceedings. The chairperson may call special meetings at any time he or she deems necessary. The secretary shall mail written notice of the time and place of all meetings in advance to each voting and nonvoting, ex officio member of the commission. The secretary shall also provide notice of all meetings as provided under section 84-1411.

Source: Laws 2016, LB754, § 3.

55-604 Commission on Military and Veteran Affairs; expenses.

(1) Members of the Commission on Military and Veteran Affairs shall receive no compensation for their services as members of the commission other than their salary, but shall be reimbursed for actual and necessary expenses.

(2) Reimbursement for expenses shall be as provided in sections 81-1174 to 81-1177.

Source: Laws 2016, LB754, § 4.

55-605 Military affairs liaison; duties.

(1) The Department of Veterans' Affairs shall hire a military affairs liaison for the Commission on Military and Veteran Affairs and fix his or her salary. The department shall provide administrative support to the commission as needed. The liaison shall have military experience and serve at the pleasure of the commission. The liaison shall not be subject to Chapter 81, article 13.

(2) The liaison shall be responsible for the administrative operations of the commission and shall perform such other duties as may be delegated or assigned by the commission.

(3) The commission may obtain the services of experts and consultants as necessary to carry out its duties.

Source: Laws 2016, LB754, § 5.

55-606 Report; contents.

The Commission on Military and Veteran Affairs shall prepare an annual report summarizing the military assets of Nebraska, including installations and missions, and the economic impact of the military assets in Nebraska. The report shall also include recommendations for preserving and sustaining military assets and missions existing in Nebraska and recommendations for actions which the state can take to encourage expanding such assets and missions. The commission shall submit the report electronically to the Legislature, the Gover-

nor, and the commanding officer of every military base in Nebraska on or before November 15 of each year.

Source: Laws 2016, LB754, § 6.

ARTICLE 7

CONSUMER PROTECTION AND CIVIL RELIEF

Section

55-701. Terms, defined.

55-702. Servicemember; termination of contract or lease; notice; refund of fees or charges; section, how construed.

55-703. Civil action; relief available.

55-704. Nebraska National Guard; duties.

55-701 Terms, defined.

For purposes of sections 55-701 to 55-704:

(1) Military service means:

(a) In the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) Full-time training duty;

(ii) Annual training duty; and

(iii) Attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(b) In the case of a member or reserve member of the Nebraska National Guard, service under a call to active service or duty authorized by:

(i) The President of the United States or the Secretary of Defense for a period of more than thirty days in response to a national emergency declared by the President of the United States; or

(ii) The Governor for a period of more than thirty consecutive days;

(c) In the case of a servicemember who is a commissioned officer of the United States Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(d) Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause; and

(2) Servicemember means an individual engaged in military service.

Source: Laws 2018, LB682, § 1.

Effective date July 19, 2018.

55-702 Servicemember; termination of contract or lease; notice; refund of fees or charges; section, how construed.

(1) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included under the federal Servicemembers Civil Relief Act, a servicemember may terminate a contract described in subsection (2) of this section at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety days to a location that is not included in or covered under the contract.

(2) This section applies to any contract to provide:

- (a) Telecommunications services;
- (b) Internet services;
- (c) Television services;
- (d) Athletic club or gym memberships;
- (e) Satellite radio services; or

(f) A lease of residential rental property, notwithstanding any provision to the contrary in the Uniform Residential Landlord and Tenant Act or any other provision of law, if the servicemember is required to move into government-owned or leased housing. This subdivision does not apply to a lease of residential rental property in which a spouse of a servicemember is a tenant in such residential rental property and government-owned or leased housing is not available to such spouse.

(3) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider or lessor.

(4) For any contract terminated under this section, the service provider or lessor under the contract shall not impose an early termination charge.

(5) Any tax or any other obligation or liability of the servicemember that, in accordance with the terms of the contract, is due and unpaid at the time of termination of the contract shall be paid by the servicemember.

(6) If after termination provided under this section the servicemember resubscribes to a service provided under a contract described in subdivisions (2)(a) through (e) of this section or reenters into a lease under a contract described in subdivision (2)(f) of this section during the ninety-day period immediately following the servicemember's return from service, the service provider or lessor may not impose any service fees or charges other than the usual and customary fees and charges imposed on any other subscriber for the installation or acquisition of customer equipment or imposed on any other lessee for the rental of residential real property. A servicemember may not be charged a penalty, fee, loss of deposit, or any other additional cost because of such termination, resubscription, or rental.

(7) Not later than sixty days after the effective date of the termination of a contract described in subsection (2) of this section, the service provider or lessor under the contract shall refund to the servicemember all fees or charges paid for services or rental that extend past the termination date of the contract. Upon the termination of a rental agreement described in subdivision (2)(f) of this section, the servicemember is entitled to the return of any deposit or prepaid rent subject to section 76-1416.

(8) In the case of a rental agreement described in subdivision (2)(f) of this section that provides for monthly payment of rent, termination of the rental agreement is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice of termination under subsection (3) of this section is delivered. In the case of any other rental agreement described in subdivision (2)(f) of this section, termination of the rental agreement is effective on the last day of the month following the month in which the notice of termination is delivered.

(9) This section shall not be construed so as to impair or affect the obligation of any lawful contract in existence prior to July 19, 2018.

Source: Laws 2018, LB682, § 2.
Effective date July 19, 2018.

Cross References

Uniform Residential Landlord and Tenant Act, see section 76-1401.

55-703 Civil action; relief available.

(1) A civil action may be brought in any court with jurisdiction by the Attorney General against any person that knowingly or intentionally violates any provision of section 55-702. The court may:

(a) Issue an injunction;

(b) Order the person to make a payment of money unlawfully received from, or required to be refunded to, one or more servicemembers;

(c) Order the person to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action; and

(d) Order the person to pay a civil penalty not greater than five thousand dollars per violation.

(2) Relief may not be granted under subsection (1) of this section if relief for the violation has already been granted under the federal Servicemembers Civil Relief Act.

Source: Laws 2018, LB682, § 3.
Effective date July 19, 2018.

55-704 Nebraska National Guard; duties.

The Nebraska National Guard shall provide to its members a list of their rights under sections 55-702 and 55-703 and under the federal Servicemembers Civil Relief Act.

Source: Laws 2018, LB682, § 4.
Effective date July 19, 2018.

CHAPTER 56

MILLDAMS

Article.

1. Acquisition of Dams and Sites. Repealed.

ARTICLE 1

ACQUISITION OF DAMS AND SITES

Section

- 56-101. Repealed. Laws 2017, LB176, § 1.
- 56-115. Repealed. Laws 2017, LB176, § 1.
- 56-124. Repealed. Laws 2017, LB176, § 1.
- 56-125. Repealed. Laws 2017, LB176, § 1.
- 56-126. Repealed. Laws 2017, LB176, § 1.
- 56-127. Repealed. Laws 2017, LB176, § 1.

56-101 Repealed. Laws 2017, LB176, § 1.

56-115 Repealed. Laws 2017, LB176, § 1.

56-124 Repealed. Laws 2017, LB176, § 1.

56-125 Repealed. Laws 2017, LB176, § 1.

56-126 Repealed. Laws 2017, LB176, § 1.

56-127 Repealed. Laws 2017, LB176, § 1.

CHAPTER 57

MINERALS, OIL, AND GAS

Article.

7. Oil and Gas Severance Tax. 57-706.
9. Oil and Gas Conservation. 57-901 to 57-922.
11. Eminent Domain for Pipelines. 57-1101, 57-1102.
12. Uranium Severance Tax. 57-1206.
14. Major Oil Pipeline Siting Act. 57-1401 to 57-1413.
15. Oil Pipeline Projects. 57-1501 to 57-1503.

ARTICLE 7

OIL AND GAS SEVERANCE TAX

Section

57-706. Tax; security; notice; use.

57-706 Tax; security; notice; use.

The Tax Commissioner, whenever he or she deems it necessary to insure compliance with the provisions of sections 57-701 to 57-719, may require any person subject to the tax to deposit with the Tax Commissioner suitable indemnity bond to insure payment of the taxes, levied under the provisions of sections 57-701 to 57-719, as the Tax Commissioner may determine. Such security may be used if it becomes necessary to collect any tax, interest, or penalty due. Notice of the use thereof shall be given to such person by mail.

Source: Laws 1955, c. 219, § 6, p. 612; Laws 1957, c. 242, § 48, p. 860; Laws 1967, c. 351, § 4, p. 934; Laws 2012, LB727, § 14.

ARTICLE 9

OIL AND GAS CONSERVATION

Section

- 57-901. Development of oil and natural gas; purpose.
- 57-903. Oil and gas; terms, defined.
- 57-904. Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation.
- 57-905. Commission; powers and duties.
- 57-905.01. Operator of Class II commercial underground injection well; duties.
- 57-909. Spacing unit; pooling of interests; order of commission; provisions for drilling and operation; costs; determination; recording.
- 57-911. Commission; rules and regulations; filing fee.
- 57-913. Appeal; procedure.
- 57-914. Temporary restraining order; bond; limitation of actions.
- 57-915. Violations; penalty.
- 57-916. Violations; injunction; parties; process.
- 57-916.01. Violations; civil penalty; procedure.
- 57-917. Commission; director; appointment; compensation; bond or insurance.
- 57-918. Attorney General; act as legal advisor; administration of oath.
- 57-919. Oil and Gas Conservation Fund; investment; charges; exemptions; payment; report of producer; filing; interest; lien; penalties.
- 57-920. Sections; jurisdiction.

Section

57-921. Commission; price or value of oil, gas, or other hydrocarbon substances; no power to fix.

57-922. Oil and Gas Conservation Trust Fund; receipts; disbursements; investment.

57-901 Development of oil and natural gas; purpose.

The purpose of sections 57-901 to 57-923 is to permit the development of Nebraska's oil and natural gas resources up to the maximum efficient rate of production while promoting the health, safety, and environment of the residents of Nebraska. It is the public policy of the state and in the public interest to encourage responsible development, production, and utilization of oil and gas natural resources and their products, to prevent waste, to protect the correlative rights of all owners, to encourage and authorize cycling, recycling, pressure maintenance, and secondary recovery operations to obtain the most efficient recovery of oil and gas resources for the highest benefit of landowners, royalty owners, producers, and the general public, and to facilitate open communication with and the participation of the general public and affected local governmental entities.

Source: Laws 1959, c. 262, § 1, p. 900; Laws 2016, LB1082, § 1.

57-903 Oil and gas; terms, defined.

As used in sections 57-901 to 57-921, unless the context otherwise requires:

(1)(a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale; (b) waste, as applied to gas shall include (i) the escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas from wells producing oil or both oil and gas and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced, but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably produced with oil if it is not economically feasible for the producer to save or use such gas; and (c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool;

(2) Commission shall mean the Nebraska Oil and Gas Conservation Commission;

(3) Person shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and any department, agency, or instrumentality of the state or of any governmental subdivision thereof;

(4) Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casing-head gas;

(5) Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil;

(6) Pool shall mean an underground reservoir containing a common accumulation of oil or gas or both, each zone of the structure which is completely separated from any other zone in the same structure is a pool as that term is used in sections 57-901 to 57-921;

(7) Field shall mean the general area underlaid by one or more pools;

(8) Owner shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he or she produces therefrom either for himself or herself or for himself or herself and others;

(9) Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease, or a unit of producing leases in which other persons own interests, with respect to such well or wells;

(10) Correlative rights shall mean the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his or her just and equitable share of the oil or gas, or both, in the pool; and

(11) The word and shall include the word or, and the word or shall include the word and.

Source: Laws 1959, c. 262, § 3, p. 901; Laws 1983, LB 228, § 5; Laws 1983, LB 224, § 7; Laws 1993, LB 121, § 353; Laws 2016, LB1082, § 2.

57-904 Nebraska Oil and Gas Conservation Commission; members; qualifications; appointment; term; quorum; vacancy; compensation.

There is hereby established the Nebraska Oil and Gas Conservation Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services not more than four hundred dollars per day for each day actually devoted to the business of the commission, except that they shall not receive a sum in any one year in excess of four thousand dollars each. In addition, each

member of the commission shall be reimbursed for his or her actual and necessary traveling and other expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177.

Source: Laws 1959, c. 262, § 4, p. 902; Laws 1979, LB 90, § 1; Laws 1981, LB 204, § 99; Laws 2018, LB1008, § 2.

Operative date July 19, 2018.

57-905 Commission; powers and duties.

(1) The commission shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of sections 57-901 to 57-921.

(2) The commission shall have authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission.

(3) The commission shall have authority to require: (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the production of oil and gas; (b) the making and filing of directional surveys, and reports on well location, drilling, and production within six months after the completion or abandonment of the well; (c) the drilling, casing, operating, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blowouts, cave-ins, seepages, and fires; (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for the performance of the duty to comply with all the provisions of the laws of the State of Nebraska and the rules, regulations, and orders of the commission; (e) that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured; (f) the operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios; (g) metering or other measuring of oil, gas, or product in pipelines or gathering systems; (h) that every person who produces or purchases oil or gas in this state shall keep and maintain or cause to be kept and maintained for a five-year period complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may reasonably prescribe with respect to such oil or gas or the products thereof; (i) that upon written request of any person, geologic information, well logs, drilling samples, and other proprietary information filed with the commission in compliance with sections 57-901 to 57-921, or any rule, regulation, or order of the commission, may be held confidential for a period of not more than twelve months; (j) periodic sampling and reporting of injection fluids injected into Class II commercial underground injection wells; (k) monitoring of produced water transporters; and (l) periodic evaluation of financial assurance requirements on existing and proposed wells to ensure ability to pay the costs of plugging, abandonment, and surface restoration.

(4) The commission is authorized to conduct public informational meetings and forums for public interaction on Class II commercial underground injection well permit applications under the jurisdiction of the commission.

(5) The commission shall have authority in order to prevent waste, to regulate: (a) The drilling, producing and plugging of wells, or test holes, and all

other operations for the production of oil or gas; (b) the shooting and chemical treatment of wells; (c) the spacing of wells; (d) operations to increase ultimate recovery such as, but without limitation, the cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and (e) disposal of oilfield wastes, including salt water.

(6) The commission shall not have authority to limit the production of oil or gas, or both, from any pool or field except to prevent waste therein.

(7) The commission shall have authority to classify wells as oil or gas wells for purposes material to the interpretation or enforcement of the provisions of sections 57-901 to 57-921.

(8) The commission shall have authority to promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of sections 57-901 to 57-921.

(9) The commission, with the approval of the Governor, shall have authority to establish and maintain its principal office and its books, papers, and records at such place in the state as it shall determine. The commission shall not have authority to purchase its principal office quarters.

(10) The commission shall have authority to require that all wells drilled for oil and gas shall be adequately logged with mechanical-electrical logging devices, and to require the filing of logs.

(11) The commission shall have the authority to regulate the drilling and plugging of seismic and stratigraphic tests in oil and gas exploration holes.

(12) The commission shall have the authority to act as the state jurisdictional agency pursuant to the federal Natural Gas Policy Act of 1978, Public Law 95-621, 92 Stat. 3350.

(13) The commission shall have the authority to have one or more examiners, who are employees of the commission, conduct any of its hearings, investigations, and examinations authorized by sections 57-901 to 57-921. Such examiner may exercise the commission's powers including, but not limited to, the taking of evidence and testimony under oath, resolving questions of fact and questions of law, and the entering of an order. Such order shall be entered in the commission's order journal. Any person having an interest in property affected by an order issued by an examiner and who is dissatisfied with such order may appeal to the commission by filing a petition on appeal to the commission within fifteen days of the entering of the examiner's order. Such person shall provide notice to all interested persons by personal service or registered or certified United States mail with return receipt, requiring such parties to answer within fifteen days from the date of service. Upon appeal, the commission shall hear the case de novo on the record and shall not be bound by any conclusions of the examiner. The commission shall hold a hearing on the appeal within forty-five days of the filing of an appeal to the commission and issue its order within fifteen days after the hearing. The commission shall review all orders issued by an examiner that are not appealed and issue an order concerning the examiner's order within sixty days after the examiner's order. The commission shall adopt, amend, or reject the examiner's order. Any order of an examiner which is not appealed to the commission and which the commission adopts shall not be appealable to the district court unless the commission adopts an order before the end of the time for appeal to the commission.

(14) The commission shall require, upon receipt of a Class II commercial underground injection well permit application, that notice be provided to the county, city, or village and natural resources district within which the proposed well would be located and shall provide such county, city, or village and natural resources district with copies of all permit application materials.

Source: Laws 1959, c. 262, § 5, p. 903; Laws 1961, c. 277, § 1, p. 811; Laws 1961, c. 278, § 1, p. 813; Laws 1967, c. 352, § 1, p. 936; Laws 1971, LB 355, § 1; Laws 1978, LB 661, § 2; Laws 1979, LB 56, § 1; Laws 1980, LB 709, § 2; Laws 1983, LB 356, § 1; Laws 2016, LB1082, § 3.

57-905.01 Operator of Class II commercial underground injection well; duties.

An operator of a Class II commercial underground injection well shall sample and analyze the fluids injected into each disposal well at sufficiently frequent time intervals to yield data representative of fluid characteristics, but no less frequently than once annually. The operator shall submit a copy of the fluid analysis to the commission.

Source: Laws 2016, LB1082, § 4.

57-909 Spacing unit; pooling of interests; order of commission; provisions for drilling and operation; costs; determination; recording.

(1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, or upon its own motion, may enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made only after notice and hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his or her just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

(2) Each such pooling order shall make provision for the drilling and operation of the authorized well on the spacing unit and for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision. As to each owner who refuses to agree upon the terms for drilling and operating the well, the order shall provide for reimbursement for his or her share of the costs out of, and only out of, production from the unit representing his or her interest, excluding royalty or other interest not obligated to pay any part of the cost thereof. In the event of any dispute as to such cost, the commission shall determine the proper cost. The order shall determine the interest of each owner in the unit and may provide in substance that, as to each owner who agrees with the person or persons drilling and operating the well

for the payment by the owner of his or her share of the costs, such owner, unless he or she has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the consenting owner; and as to each owner who does not agree, he or she shall be entitled to receive from the person or persons drilling and operating such well on the unit his or her share of the production applicable to his or her interest, after the person or persons drilling and operating such well have recovered, depending on the total measured depth of the well, three hundred percent for wells less than five thousand feet deep, four hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or deeper, of that portion of the costs and expenses of staking, well site preparation, drilling, reworking, deepening or plugging back, testing, completing, and other intangible expenses approved by the commission chargeable to each owner who does not agree, and, depending on the total measured depth of the well, two hundred percent for wells less than five thousand feet deep, three hundred percent for wells five thousand feet deep but less than six thousand five hundred feet deep, and five hundred percent for wells six thousand five hundred feet deep or deeper, of all equipment including wellhead connections, casing, tubing, packers, and other downhole equipment and surface equipment, including, but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation and a reasonable rate of interest on the unpaid balance. For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths interest in and to such rights and a lessor to the extent of the remaining one-eighth interest therein.

(3) A certified copy of the order may be filed for record with the county clerk or register of deeds of the county, as the case may be, where the property involved is located, which recording shall constitute constructive notice thereof. The county clerk, or register of deeds, as the case may be, shall record the same in the real property records of the county and shall index the same against the property affected.

Source: Laws 1959, c. 262, § 9, p. 907; Laws 1978, LB 447, § 1; Laws 2011, LB458, § 1.

57-911 Commission; rules and regulations; filing fee.

(1) The commission shall prescribe rules and regulations governing the practice and procedure before the commission.

(2) No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least fifteen days' notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

(3) When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing which shall be effective upon promulgation. No emergency order shall remain effective for more than twenty days.

(4) Any notice required by the provisions of sections 57-901 to 57-921, except in proceedings involving a direct complaint by the commission, shall be given

at the election of the commission either by personal service, registered or certified mail, or one publication in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall be issued in the name of the state, shall be signed by a member of the commission or its secretary, and shall specify the style and number of the proceedings, the time and place of the hearing, and the purpose of the proceeding. Should the commission notice be by personal service, such service may be made by any officer authorized to serve summons, or by any agent of the commission, in the same manner and extent as is provided by law for the service of summons in civil actions in the district courts of this state. Proof of the service by such agent shall be by his or her affidavit and proof of service by an officer shall be in the form required by law with respect to service of process in civil actions. In all cases where a complaint is made by the commission or the Director of the Nebraska Oil and Gas Conservation Commission that any part of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission is being violated, notice of the hearing to be held on such complaint shall be served on the interested parties in the same manner as is provided in the code of civil procedure for the service of process in civil actions in the district courts of this state. In addition to notices required by this section, the commission may provide for further notice of hearing in such proceedings as it may deem necessary in order to notify all interested persons of the pendency of such proceedings and the time and place of hearing and to afford such persons an opportunity to appear and be heard.

(5) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full and indexed in books to be kept by the commission for that purpose, shall be public records open for inspection at all times during reasonable office hours, and shall be filed as provided by the Administrative Procedure Act. A copy of any rule, regulation, or order certified by any member of the commission, or its secretary, under its seal, shall be received in evidence in all courts of this state with the same effect as the original.

(6) The commission may act upon its own motion or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty days after the hearing.

(7) A petition filed with the commission for a public hearing shall be accompanied by a filing fee of two hundred fifty dollars.

Source: Laws 1959, c. 262, § 11, p. 908; Laws 1961, c. 279, § 1, p. 816; Laws 1967, c. 354, § 2, p. 939; Laws 1967, c. 356, § 1, p. 944; Laws 1995, LB 407, § 2; Laws 2016, LB1082, § 5.

Cross References

Administrative Procedure Act, see section 84-920.

57-913 Appeal; procedure.

Any person having an interest in property affected by and who is dissatisfied with any rule, regulation, or order made or issued under sections 57-901 to

57-921 may appeal the rule, regulation, or order, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1959, c. 262, § 13, p. 911; Laws 1961, c. 280, § 1, p. 818; Laws 1967, c. 357, § 1, p. 946; Laws 1988, LB 352, § 101; Laws 2016, LB1082, § 6.

Cross References

Administrative Procedure Act, see section 84-920.

57-914 Temporary restraining order; bond; limitation of actions.

(1) No temporary restraining order or injunction of any kind against the commission or its agents, employees or representatives, or the Attorney General, shall become operative unless and until the plaintiff party shall execute and file with the clerk of the district court a bond in such amount and upon such conditions as the court issuing such order or injunction may direct, with surety approved by the clerk of the district court thereof. The bond shall be made payable to the State of Nebraska, and shall be for the use and benefit of all persons who may be and to the extent that they shall suffer injury or damage by any acts done under the protection of the restraining order or injunction, if the same should not have issued. No suit on the bond may be brought after six months from the date of the final determination of the suit in which the restraining order or injunction was issued.

(2) Any suit, action, or other proceedings based upon a violation of any of the provisions of sections 57-901 to 57-921 shall be commenced within one year from the date of the violation complained of.

Source: Laws 1959, c. 262, § 14, p. 912; Laws 2016, LB1082, § 7.

57-915 Violations; penalty.

(1) Any person who violates any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be guilty of a Class II misdemeanor. Each day that such violation continues shall constitute a separate offense.

(2) If any person, for the purpose of evading the provisions of sections 57-901 to 57-921, or any rule, regulation or order of the commission, shall make or cause to be made any false entry or statement in a report required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall make or cause to be made any false entry in any record, account or memorandum required by the provisions of sections 57-901 to 57-921, or by any such rule, regulation or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum, such person shall be guilty of a Class II misdemeanor.

(3) Any person knowingly aiding or abetting any other person in the violation of any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission shall be subject to the same penalty as that prescribed by the provisions of sections 57-901 to 57-921 for the violation by such other person.

(4) The penalties provided in this section shall be recoverable by suit filed by the Attorney General in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty

shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

Source: Laws 1959, c. 262, § 15, p. 913; Laws 1977, LB 39, § 59; Laws 2016, LB1082, § 8.

57-916 Violations; injunction; parties; process.

(1) Whenever it appears that any person is violating or threatening to violate any provision of sections 57-901 to 57-921, or any rule, regulation or order of the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this state for service by such sheriff or his deputies. In any such suit, the court shall have jurisdiction and authority to issue, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.

(2) If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of sections 57-901 to 57-921, or any rule, regulation, or order of the commission, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of sections 57-901 to 57-921, or a rule, regulation or order of the commission, and the action shall proceed and injunctive relief may be granted in the same manner as if suit had been brought by the commission; *Provided*, that in such event the person bringing suit shall be required to give bond in accordance with the rules of civil procedure in the district courts.

Source: Laws 1959, c. 262, § 16, p. 914; Laws 2016, LB1082, § 9.

57-916.01 Violations; civil penalty; procedure.

(1) In addition to the penalties prescribed in section 57-915, any person who violates any provision of sections 57-901 to 57-921, any rule, regulation, or order of the commission, or any term, condition, or limitation of any permit issued pursuant to such sections, rule, regulation, or order may be subject to a civil penalty imposed by the commission of not to exceed one thousand dollars. No civil penalty shall be imposed until written notice is sent pursuant to subsection (2) of this section and a period of ten days has elapsed in which the person may come into compliance if possible. If any violation is a continuing one, each day a violation continues after such ten-day period shall constitute a separate violation for the purpose of computing the applicable civil penalty. The commission may compromise, mitigate, or remit such penalties.

(2) Whenever the commission intends to impose a civil penalty under this section, the commission shall notify the person in writing (a) setting forth the date, facts, and nature of each violation with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, or permit involved in the violation, and (c) specifying the amount of each penalty which the commission intends to impose. Such written notice shall be sent by registered or certified mail to the last-known

address of such person. The notice shall also advise such person of his or her right to a hearing and that failure to pay any civil penalty subsequently imposed by the commission will result in a civil action by the commission to collect such penalty. The person so notified may, within thirty days of receipt of such notice, submit a written request for a hearing to review any penalty to be imposed by the commission. A hearing shall be held in accordance with the Administrative Procedure Act, and any person upon whom a civil penalty is subsequently imposed may appeal such penalty pursuant to such act. On the request of the commission, the Attorney General or county attorney may institute a civil action to collect a penalty imposed pursuant to this section.

Source: Laws 1990, LB 922, § 1; Laws 2016, LB1082, § 10.

Cross References

Administrative Procedure Act, see section 84-920.

57-917 Commission; director; appointment; compensation; bond or insurance.

To enable the commission to carry out its duties and powers under the laws of this state with respect to conservation of oil and gas and to enforce sections 57-901 to 57-921 and the rules and regulations so prescribed, the commission shall employ one chief administrator who shall not be a member of the commission and who shall be known as the Director of the Nebraska Oil and Gas Conservation Commission, and as such he or she shall be charged with the duty of administering and enforcing the provisions of sections 57-901 to 57-921 and all rules, regulations, and orders promulgated by the commission, subject to the direction of the commission. The director shall be a qualified petroleum engineer with not less than three years' actual field experience in the drilling and operation of oil and gas wells. Such director shall hold office at the pleasure of the commission and receive a salary to be fixed by the commission. The director, with the concurrence of the commission, shall have the authority, and it shall be his or her duty, to employ assistants and other employees necessary to carry out the provisions of sections 57-901 to 57-921. The director shall be ex officio secretary of the Nebraska Oil and Gas Conservation Commission and shall keep all minutes and records of the commission. The director shall, as secretary, be bonded or insured as required by section 11-201. The premium shall be paid by the State of Nebraska. The director and other employees of the commission performing duties authorized by sections 57-901 to 57-921 shall be paid their necessary traveling and living expenses when traveling on official business at such rates and within such limits as may be fixed by the commission, subject to existing laws.

Source: Laws 1959, c. 262, § 17, p. 914; Laws 1978, LB 653, § 19; Laws 2004, LB 884, § 31; Laws 2016, LB1082, § 11.

57-918 Attorney General; act as legal advisor; administration of oath.

The Attorney General shall be the attorney for the Nebraska Oil and Gas Conservation Commission; *Provided*, that in cases of emergency or in other special cases the commission may, with the consent of the Attorney General retain additional legal counsel, and for such purpose may use any funds available under the provisions of sections 57-901 to 57-921. Any member of the commission, or the secretary thereof, shall have the power to administer oaths to any witness in any hearing, investigation or proceeding contemplated by

sections 57-901 to 57-921 or by any other law of this state relating to the conservation of oil and gas.

Source: Laws 1959, c. 262, § 18, p. 915; Laws 2016, LB1082, § 12.

57-919 Oil and Gas Conservation Fund; investment; charges; exemptions; payment; report of producer; filing; interest; lien; penalties.

(1) All money collected by the Tax Commissioner or the commission or as civil penalties under sections 57-901 to 57-921 shall be remitted to the State Treasurer for credit to a special fund to be known as the Oil and Gas Conservation Fund. Expenses incident to the administration of such sections shall be paid out of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Oil and Gas Conservation Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska where produced a charge not to exceed fifteen mills on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof as in its judgment the expenses chargeable against the Oil and Gas Conservation Fund may require, except that the amounts fixed by the commission shall not exceed the limit prescribed in this section. It shall be the duty of the Tax Commissioner to make collection of such assessments. The persons owning an interest, a working interest, a royalty interest, payments out of production, or any other interest in the oil and gas, or in the proceeds thereof, subject to the charge provided for in this section shall be liable to the producer for such charge in proportion to their ownership at the time of production. The producer shall, on or before the last day of the month next succeeding the month in which the charge was assessed, file a report or return in such form as prescribed by the commission and Tax Commissioner together with all charges due. In the event of a sale of oil or gas within this state, the first purchaser shall file this report or return together with any charges then due. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports or returns shall be considered filed on time if postmarked before midnight of the final filing date. Any such charge not paid within the time herein specified shall bear interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted, from the date of delinquency until paid, and such charge together with the interest shall be a lien as provided in section 57-702. The Tax Commissioner shall charge and collect a penalty for the delinquency in the amount of one percent of the charge for each month or part of the month that the charge has remained delinquent, but in no event shall the penalty be more than twenty-five percent of the charge. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest. The person remitting the charge as provided in this section is hereby authorized, empowered, and required to deduct from any amounts due the persons owning an interest in the oil and gas or in the proceeds thereof at the time of production the proportionate amount of such charge before making payment to such persons. This subsection shall apply to all lands in the State of Nebraska, anything in section 57-920 to the contrary notwithstanding, except that there shall be exempted from the charge

levied and assessed in this section the following: (a) The interest of the United States of America and the interest of the State of Nebraska and the political subdivisions thereof in any oil or gas or in the proceeds thereof; (b) the interest of any Indian or Indian tribe in any oil or gas or in the proceeds thereof produced from land subject to the supervision of the United States; and (c) oil and gas used in producing operations or for repressuring or recycling purposes. All money so collected shall be remitted to the State Treasurer for credit to the Oil and Gas Conservation Fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 19, p. 915; Laws 1969, c. 584, § 56, p. 2380; Laws 1973, LB 527, § 1; Laws 1974, LB 804, § 2; Laws 1980, LB 709, § 3; Laws 1981, LB 167, § 33; Laws 1983, LB 224, § 8; Laws 1986, LB 1027, § 198; Laws 1992, Fourth Spec. Sess., LB 1, § 8; Laws 1994, LB 1066, § 44; Laws 1995, LB 407, § 3; Laws 1997, LB 97, § 1; Laws 2009, First Spec. Sess., LB3, § 33; Laws 2016, LB1082, § 13.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

57-920 Sections; jurisdiction.

The State of Nebraska being a sovereign state and not disposed to jeopardize or surrender any of its sovereign rights, sections 57-901 to 57-921 shall apply to all lands in the State of Nebraska lawfully subject to its police powers, except it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands shall fail to effect the intent and purposes of sections 57-901 to 57-921 and otherwise shall apply to such lands to such extent as an officer of the United States having jurisdiction, or his or her duly authorized representative, shall approve any of the provisions of sections 57-901 to 57-921 or the order or orders of the commission which affects such lands, and the same shall apply to any lands committed to a unit agreement approved by the Secretary of the Interior of the United States, or his or her duly authorized representative, except that the commission may, under such unit agreements, suspend the application of the provisions of sections 57-901 to 57-921 or any part of sections 57-901 to 57-921 so long as the conservation of oil and gas and the prevention of waste, as provided in sections 57-901 to 57-921, is accomplished thereby but such suspension shall not relieve any operator from making such reports as are necessary or advised to be fully informed as to operations under such agreement and as the commission may require under the provisions of sections 57-901 to 57-921.

Source: Laws 1959, c. 262, § 20, p. 917; Laws 2016, LB1082, § 14.

57-921 Commission; price or value of oil, gas, or other hydrocarbon substances; no power to fix.

Notwithstanding anything heretofore contained in sections 57-901 to 57-921, the Nebraska Oil and Gas Conservation Commission shall have no authority to

establish, fix or in any way control the price or value of oil, gas, other hydrocarbon substances or any of the products or component parts thereof.

Source: Laws 1959, c. 262, § 21, p. 917; Laws 2016, LB1082, § 15.

57-922 Oil and Gas Conservation Trust Fund; receipts; disbursements; investment.

There is hereby created in the state treasury a special fund to be known as the Oil and Gas Conservation Trust Fund. All sums of money received by the Nebraska Oil and Gas Conservation Commission, in a manner other than as provided in sections 57-901 to 57-921, shall be paid into the state treasury and the State Treasurer shall deposit the money in the Oil and Gas Conservation Trust Fund. The State Treasurer shall disburse the money in the trust fund as directed by resolution of the Nebraska Oil and Gas Conservation Commission. All disbursements for the fund shall be made upon warrants drawn by the Director of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1973, LB 119, § 1; Laws 2016, LB1082, § 16.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 11

EMINENT DOMAIN FOR PIPELINES

Section

57-1101. Acquisition of property by eminent domain; authorized; procedure.

57-1102. Crossing public roads or highways; rights acquired; restrictions.

57-1101 Acquisition of property by eminent domain; authorized; procedure.

Any person engaged in, and any company, corporation, or association formed or created for the purpose of, transporting or conveying crude oil, petroleum, gases, or other products thereof in interstate commerce through or across the State of Nebraska or intrastate within the State of Nebraska, and desiring or requiring a right-of-way or other interest in real estate and being unable to agree with the owner or lessee of any land, lot, right-of-way, or other property for the amount of compensation for the use and occupancy of so much of any lot, land, real estate, right-of-way, or other property as may be reasonably necessary for the laying, relaying, operation, and maintenance of any such pipeline or the location of any plant or equipment necessary to operate such pipeline, shall have the right to acquire the same for such purpose through the exercise of the power of eminent domain, except that for any major oil pipeline as defined in section 57-1404 to be placed in operation in the State of Nebraska after November 23, 2011, any such person, company, corporation, or association shall comply with section 57-1503 and receive the approval of the Governor for the route of the pipeline under such section or shall apply for and receive an order approving the application under the Major Oil Pipeline Siting Act, prior to having the rights provided under this section. If condemnation procedures have not been commenced within two years after the date the Governor's approval is granted or after the date of receipt of an order

approving an application under the Major Oil Pipeline Siting Act, the right under this section expires. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1963, c. 323, § 1, p. 979; Laws 2011, First Spec. Sess., LB1, § 1; Laws 2012, LB1161, § 1.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

57-1102 Crossing public roads or highways; rights acquired; restrictions.

Any such person, company, corporation, or association, in the laying, relaying, operation, and maintenance of any such pipeline within the State of Nebraska, shall have the right to enter upon and cross, with such pipeline, any public road or highway, under such reasonable regulations and restrictions as may be prescribed by the Department of Transportation, if it is a state or federal highway, or by the county board of each county, as to all other public roads and highways within such county, and shall also have the right to lay, relay, operate, and maintain such pipeline in and along any public road or highway.

Source: Laws 1963, c. 323, § 2, p. 980; Laws 2017, LB339, § 179.

ARTICLE 12

URANIUM SEVERANCE TAX

Section

57-1206. Tax; security; notice; use.

57-1206 Tax; security; notice; use.

The Tax Commissioner, whenever he or she deems it necessary to insure compliance with sections 57-1201 to 57-1214, may require any person subject to the tax imposed by section 57-1202 to deposit with the Tax Commissioner a suitable indemnity bond to insure payment of the tax as the Tax Commissioner may determine. Such security may be used if it becomes necessary to collect any tax, interest, or penalty due. Notice of the use of the bond shall be given to such person by mail.

Source: Laws 1983, LB 356, § 18; Laws 2012, LB727, § 15.

ARTICLE 14

MAJOR OIL PIPELINE SITING ACT

Section

- 57-1401. Act, how cited.
- 57-1402. Purposes of act.
- 57-1403. Legislative findings.
- 57-1404. Terms, defined.
- 57-1405. Pipeline carrier; construction of major oil pipeline; application; substantive change to route; application; contents; notice.
- 57-1406. Commission; assess expenses; payment; neglect or refusal to pay; failure to file objection; notice of delinquency; collection.
- 57-1407. Commission; duties; public meetings; agency reports; approval by commission; considerations.
- 57-1408. Commission order; findings; extension of time; status reports; notice of completion; denial of application; amended application; commission; duties.

Section

57-1409. Appeal.

57-1410. Rules and regulations.

57-1411. Public Service Commission Pipeline Regulation Fund; created; use; investment.

57-1412. Commission; powers.

57-1413. Documents or records; not withheld from public.

57-1401 Act, how cited.

Sections 57-1401 to 57-1413 shall be known and may be cited as the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 2; Laws 2012, LB1161, § 2.

57-1402 Purposes of act.

(1) The purposes of the Major Oil Pipeline Siting Act are to:

(a) Ensure the welfare of Nebraskans, including protection of property rights, aesthetic values, and economic interests;

(b) Consider the lawful protection of Nebraska's natural resources in determining the location of routes of major oil pipelines within Nebraska;

(c) Ensure that a major oil pipeline is not constructed within Nebraska without receiving the approval of the commission under section 57-1408;

(d) Ensure that the location of routes for major oil pipelines is in compliance with Nebraska law; and

(e) Ensure that a coordinated and efficient method for the authorization of such construction is provided.

(2) Nothing in the Major Oil Pipeline Siting Act shall be construed to regulate any safety issue with respect to any aspect of any interstate oil pipeline. The Major Oil Pipeline Siting Act is intended to deal solely with the issue of siting or choosing the location of the route aside and apart from safety considerations. The Legislature acknowledges and respects the exclusive federal authority over safety issues established by the federal law, the Pipeline Safety Act of 1994, 49 U.S.C. 60101 et seq., and the express preemption provision stated in that act. The Major Oil Pipeline Siting Act is intended to exercise only the remaining sovereign powers and purposes of Nebraska which are not included in the category of safety regulation.

Source: Laws 2011, First Spec. Sess., LB1, § 3; Laws 2012, LB1161, § 4.

57-1403 Legislative findings.

The Legislature finds that:

(1) Nebraska has the authority as a sovereign state to protect its land and natural resources for economic and aesthetic purposes for the benefit of its residents and future generations by regulation through approval or disapproval of major oil pipeline siting and the location of routes, so long as it does not regulate in the area of safety as to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of major oil pipelines and pipeline facilities;

(2) The water and other natural resources in Nebraska will become increasingly valuable, both economically and strategically, as the demand for agricultural products for both food and fuel increases;

(3) The construction of major oil pipelines in Nebraska is in the public interest of Nebraska and the nation to meet the increasing need for energy; and

(4) The irrigation economy of Nebraska which relies on quality water adds over one billion dollars annually to net farm income and increases the gross state product by three billion dollars annually.

Source: Laws 2011, First Spec. Sess., LB1, § 4.

57-1404 Terms, defined.

For purposes of the Major Oil Pipeline Siting Act:

(1) Commission means the Public Service Commission;

(2) Major oil pipeline means a pipeline which is larger than six inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means a person that engages in owning, operating, or managing a major oil pipeline.

Source: Laws 2011, First Spec. Sess., LB1, § 5; Laws 2012, LB1161, § 5.

57-1405 Pipeline carrier; construction of major oil pipeline; application; substantive change to route; application; contents; notice.

(1) If a pipeline carrier proposes to construct a major oil pipeline to be placed in operation in Nebraska after November 23, 2011, and the pipeline carrier has submitted a route for an oil pipeline within, through, or across Nebraska but the route is not approved by the Governor pursuant to section 57-1503, the pipeline carrier shall file an application with the commission and receive approval pursuant to section 57-1408 prior to beginning construction of the major oil pipeline within Nebraska. If a pipeline carrier proposes a substantive change to the route of a major oil pipeline and the pipeline carrier has submitted a route for an oil pipeline within, through, or across Nebraska but the route is not approved by the Governor pursuant to section 57-1503, the pipeline carrier shall file an application for the proposed change with the commission and receive approval pursuant to section 57-1408 prior to beginning construction relating to the proposed change. The applicant shall also file a copy of the application with the agencies listed in subsection (3) of section 57-1407.

(2) The application shall be accompanied by written agreement to pay expenses assessed pursuant to section 57-1406 and written testimony and exhibits in support of the application. The application shall include:

(a) The name and address of the pipeline carrier;

(b) A description of the nature and proposed route of the major oil pipeline and evidence of consideration of alternative routes;

(c) A statement of the reasons for the selection of the proposed route of the major oil pipeline;

(d) A list of the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located;

(e) A description of the product or material to be transported through the major oil pipeline;

- (f) The person who will own the major oil pipeline;
- (g) The person who will manage the major oil pipeline;
- (h) A plan to comply with the Oil Pipeline Reclamation Act; and
- (i) A list of planned methods to minimize or mitigate the potential impacts of the major oil pipeline to land areas and connected natural resources other than with respect to oil spills.

(3) The applicant shall publish notice of the application in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed and forward a copy of such notice to the commission. The applicant shall serve notice of the application upon the governing bodies of the counties and municipalities specified pursuant to subdivision (2)(d) of this section.

Source: Laws 2011, First Spec. Sess., LB1, § 6; Laws 2012, LB1161, § 6.

Cross References

Oil Pipeline Reclamation Act, see section 76-3301.

57-1406 Commission; assess expenses; payment; neglect or refusal to pay; failure to file objection; notice of delinquency; collection.

(1) The commission shall assess the expenses reasonably attributable to investigation and hearing regarding an application filed under section 57-1405, including expenses billed by agencies filing reports as required in subsection (3) of section 57-1407 and both direct and indirect expenses incurred by the commission or its staff or consultants, to the applicant as agreed under section 57-1405.

(2) The commission shall ascertain the expenses of any such investigation and hearing and by order assess such expenses against the applicant and shall render a bill therefor, by United States mail, to the applicant, either at the time the order under section 57-1408 is issued or from time to time during such application process. Such bill shall constitute notice of such assessment and demand of payment thereof. Upon a bill rendered to such applicant, within fifteen days after the mailing thereof, such applicant shall pay to the commission the amount of the assessment for which it is billed. The commission shall remit the payment to the State Treasurer for credit to the Public Service Commission Pipeline Regulation Fund. The commission may render bills in one fiscal year for costs incurred within a previous fiscal year. The commission shall direct the State Treasurer to credit any reimbursement of expenses billed by agencies pursuant to subsection (3) of section 57-1407 to the appropriate fund of the appropriate agency.

(3) If any applicant against which an assessment has been made pursuant to this section, within fifteen days after the notice of such assessment, (a) neglects or refuses to pay the same or (b) fails to file objections to the assessment with the commission as provided in subsection (4) of this section, the commission shall transmit to the State Treasurer a certified copy of the notice of assessment, together with notice of neglect or refusal to pay the assessment, and on the same day the commission shall mail by registered mail to the applicant against which the assessment has been made a copy of the notice which it has transmitted to the State Treasurer. If any such applicant fails to pay such assessment to the State Treasurer within ten days after receipt of such notice and certified copy of such assessment, the assessment shall bear interest at the

rate of fifteen percent per annum from and after the date on which the copy of the notice was mailed by registered mail to such applicant.

(4) Within fifteen days after the date of the mailing of any notice of assessment under subsection (2) of this section, the applicant against which such assessment has been made may file with the commission objections setting out in detail the ground upon which the applicant regards such assessment to be excessive, erroneous, unlawful, or invalid. The commission shall determine if the assessment or any part of the assessment is excessive, erroneous, unlawful, or invalid and shall render an order upholding, invalidating, or amending the assessment. An amended assessment shall have in all respects the same force and effect as though it were an original assessment.

(5) If any assessment against which objections have been filed is not paid within ten days after service of an order finding that such objections have been overruled and disallowed by the commission, the commission shall give notice of such delinquency to the State Treasurer and to the applicant in the manner provided for in subsection (3) of this section. The State Treasurer shall then collect the amount of such assessment. If an amended assessment is not paid within ten days after service of the order of the commission, the commission shall notify the State Treasurer and the applicant as in the case of delinquency in the payment of an original assessment. The State Treasurer shall then collect the amount of such assessment as provided in the case of an original assessment.

Source: Laws 2011, First Spec. Sess., LB1, § 7.

57-1407 Commission; duties; public meetings; agency reports; approval by commission; considerations.

(1) After receipt of an application under section 57-1405, the commission shall:

- (a) Within sixty days, schedule a public hearing;
- (b) Notify the pipeline carrier of the time, place, and purpose of the public hearing;
- (c) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed; and
- (d) Serve notice of the public hearing upon the governing bodies of the counties and municipalities through which the proposed route of the major oil pipeline would be located as specified in subdivision (2)(d) of section 57-1405.

(2) The commission may hold additional public meetings for the purpose of receiving input from the public at locations as close as practicable to the proposed route of the major oil pipeline. The commission shall make the public input part of the record.

(3) If requested by the commission, the following agencies shall file a report with the commission, prior to the hearing on the application, regarding information within the respective agencies' area of expertise relating to the impact of the major oil pipeline on any area within the respective agencies' jurisdiction, including in such report opinions regarding the advisability of approving, denying, or modifying the location of the proposed route of the major oil pipeline: The Department of Environmental Quality, the Department of Natural Resources, the Department of Revenue, the Department of Transport-

tation, the Game and Parks Commission, the Nebraska Oil and Gas Conservation Commission, the Nebraska State Historical Society, the State Fire Marshal, and the Board of Educational Lands and Funds. The agencies may submit a request for reimbursement of reasonable and necessary expenses incurred for any consultants hired pursuant to this subsection.

(4) An application under the Major Oil Pipeline Siting Act shall be approved if the proposed route of the major oil pipeline is determined by the Public Service Commission to be in the public interest. The pipeline carrier shall have the burden to establish that the proposed route of the major oil pipeline would serve the public interest. In determining whether the pipeline carrier has met its burden, the commission shall not evaluate safety considerations, including the risk or impact of spills or leaks from the major oil pipeline, but the commission shall evaluate:

(a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules, and regulations and local ordinances;

(b) Evidence of the impact due to intrusion upon natural resources and not due to safety of the proposed route of the major oil pipeline to the natural resources of Nebraska, including evidence regarding the irreversible and irretrievable commitments of land areas and connected natural resources and the depletion of beneficial uses of the natural resources;

(c) Evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources;

(d) Evidence regarding the economic and social impacts of the major oil pipeline;

(e) Whether any other utility corridor exists that could feasibly and beneficially be used for the route of the major oil pipeline;

(f) The impact of the major oil pipeline on the orderly development of the area around the proposed route of the major oil pipeline;

(g) The reports of the agencies filed pursuant to subsection (3) of this section; and

(h) The views of the governing bodies of the counties and municipalities in the area around the proposed route of the major oil pipeline.

Source: Laws 2011, First Spec. Sess., LB1, § 8; Laws 2017, LB339, § 180.

57-1408 Commission order; findings; extension of time; status reports; notice of completion; denial of application; amended application; commission; duties.

(1) Within seven months after the receipt of the application under section 57-1405, the commission shall enter an order approving the application or denying the application. The commission shall include in the order the findings of the commission regarding the application and the reasons for approving or denying the application. The order approving the application shall state that the application is in the public interest and shall authorize the pipeline carrier to act under section 57-1101.

(2) The commission may, for just cause, extend the time for the entry of an order under subsection (1) of this section. The extension shall not exceed twelve months after the receipt of the application under section 57-1405 unless all parties agree to a longer extension, except that no extension shall extend more

than eight months after the issuance of a presidential permit authorizing the construction of the major oil pipeline.

(3) If the commission approves the application, the pipeline carrier shall file a status report with the commission regarding the construction of the major oil pipeline every six months until the completion of the major oil pipeline within Nebraska. The pipeline carrier shall notify the commission of the completion of the major oil pipeline within Nebraska within thirty days after such completion.

(4) If the commission denies the application, the pipeline carrier may amend the denied application in accordance with the findings of the commission and submit the amended application within sixty days after the issuance of the order denying the application. Within sixty days after the receipt of the amended application, the commission shall enter an order approving or denying the amended application after making new findings under subsection (4) of section 57-1407.

Source: Laws 2011, First Spec. Sess., LB1, § 9.

57-1409 Appeal.

Any party aggrieved by a final order of the commission regarding an application or assessment under the Major Oil Pipeline Siting Act, including, but not limited to, a decision relating to the public interest, may appeal. The appeal shall be in accordance with section 75-136.

Source: Laws 2011, First Spec. Sess., LB1, § 10; Laws 2013, LB545, § 1.

57-1410 Rules and regulations.

The commission shall adopt and promulgate rules and regulations to carry out the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 11.

57-1411 Public Service Commission Pipeline Regulation Fund; created; use; investment.

The Public Service Commission Pipeline Regulation Fund is created. The fund shall be administered by the commission. The fund shall be used by the commission to carry out the Major Oil Pipeline Siting Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2011, First Spec. Sess., LB1, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

57-1412 Commission; powers.

The commission may contract for professional services and expert assistance, including, but not limited to, the services of engineers, hydrogeologists, accountants, attorneys, and economists, to assist with reviewing applications under the Major Oil Pipeline Siting Act.

Source: Laws 2011, First Spec. Sess., LB1, § 13.

57-1413 Documents or records; not withheld from public.

The commission shall not withhold any documents or records relating to a major oil pipeline from the public unless the documents or records are of the type that can be withheld under section 84-712.05 or unless federal law provides otherwise.

Source: Laws 2012, LB1161, § 3.

ARTICLE 15**OIL PIPELINE PROJECTS**

Section

57-1501. Legislative findings.

57-1502. Terms, defined.

57-1503. Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

57-1501 Legislative findings.

The Legislature finds that:

(1) The State of Nebraska is responsible for protecting its natural resources, agricultural resources, aesthetics, economy, and communities through reasonable regulation for the common good and welfare. As such, the state is responsible for ensuring that an oil pipeline proposed to be located within, through, or across Nebraska is in compliance with all state laws, rules, and regulations relating to water, air, and wildlife under the Constitution of Nebraska and state law;

(2) Public policy should reflect this responsibility while simultaneously recognizing the necessity for energy use and the economic benefits to Nebraska of transporting oil within, through, or across the state, the need for economic development in Nebraska, and the opportunities for jobs and revenue that new development brings to the state;

(3) The United States has the important ability to work with foreign suppliers of crude oil to meet our overall energy needs and to further our national security interests; and

(4) The economic benefits of oil pipeline construction projects are important to the state, including the creation of jobs. Nevertheless, the benefits of any proposed oil pipeline project must be weighed against any concerns brought by the residents of Nebraska.

Source: Laws 2011, First Spec. Sess., LB4, § 1.

57-1502 Terms, defined.

For purposes of sections 57-1501 to 57-1503:

(1) Department means the Department of Environmental Quality;

(2) Oil pipeline means a pipeline which is larger than eight inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means an individual, a company, a corporation, an association, or any other legal entity that engages in owning, operating, or managing an oil pipeline.

Source: Laws 2011, First Spec. Sess., LB4, § 2.

57-1503 Evaluation of route; supplemental environmental impact statement; department; powers and duties; pipeline carrier; reimburse cost; submit to Governor; duty; denial; notice to pipeline carrier; documents or records; not withheld from public.

(1)(a) The department may:

(i) Evaluate any route for an oil pipeline within, through, or across the state and submitted by a pipeline carrier for the stated purpose of being included in a federal agency's or agencies' National Environmental Policy Act review process. Any such evaluation shall include at least one public hearing, provide opportunities for public review and comment, and include, but not be limited to, an analysis of the environmental, economic, social, and other impacts associated with the proposed route and route alternatives in Nebraska. The department may collaborate with a federal agency or agencies and set forth the responsibilities and schedules that will lead to an effective and timely evaluation; or

(ii) Collaborate with a federal agency or agencies in a review under the National Environmental Policy Act involving a supplemental environmental impact statement for oil pipeline projects within, through, or across the state. Prior to entering into such shared jurisdiction and authority, the department shall collaborate with such agencies to set forth responsibilities and schedules for an effective and timely review process.

(b) A pipeline carrier that has submitted a route for evaluation or review pursuant to subdivision (1)(a) of this section shall reimburse the department for the cost of the evaluation or review within sixty days after notification from the department of the cost. The department shall remit any reimbursement to the State Treasurer for credit to the Department of Environmental Quality Cash Fund.

(2) The department may contract with outside vendors in the process of preparation of a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section. The department shall make every reasonable effort to ensure that each vendor has no conflict of interest or relationship to any pipeline carrier that applies for an oil pipeline permit.

(3) In order for the process to be efficient and expeditious, the department's contracts with vendors pursuant to this section for a supplemental environmental impact statement or an evaluation conducted under subdivision (1)(a) of this section shall not be subject to the Nebraska Consultants' Competitive Negotiation Act or sections 73-301 to 73-306 or 73-501 to 73-510.

(4) After the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section is prepared, the department shall submit it to the Governor. Within thirty days after receipt of the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section from the department, the Governor shall indicate, in writing, to the federal agency or agencies involved in the review or

any other appropriate federal agency or body as to whether he or she approves any of the routes reviewed in the supplemental environmental impact statement or the evaluation conducted under subdivision (1)(a) of this section. If the Governor does not approve any of the reviewed routes, he or she shall notify the pipeline carrier that in order to obtain approval of a route in Nebraska the pipeline carrier is required to file an application with the Public Service Commission pursuant to the Major Oil Pipeline Siting Act.

(5) The department shall not withhold any documents or records relating to an oil pipeline from the public unless the documents or records are of the type that can be withheld under section 84-712.05 or unless federal law provides otherwise.

Source: Laws 2011, First Spec. Sess., LB4, § 3; Laws 2012, LB858, § 16; Laws 2012, LB1161, § 7.

Cross References

Major Oil Pipeline Siting Act, see section 57-1401.

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.

CHAPTER 58

MONEY AND FINANCING

Article.

2. Nebraska Investment Finance Authority. 58-242 to 58-270.
3. Small Business Development. Repealed.
4. Research and Development Authority. Repealed.
7. Nebraska Affordable Housing Act. 58-702 to 58-711.
8. Nebraska Educational, Health, and Social Services Finance Authority Act. 58-801 to 58-866.

ARTICLE 2

NEBRASKA INVESTMENT FINANCE AUTHORITY

Section

- 58-242. Authority; agricultural projects; duties.
- 58-246. Agricultural projects; loan reports; public information; borrower's name omitted.
- 58-270. Authority; reports; contents; audit; issuance of bonds; notices.

58-242 Authority; agricultural projects; duties.

Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than five hundred thousand dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred seventeen thousand seven hundred dollars, as such amount shall be adjusted for inflation in accordance with section 147(c) of the Internal Revenue Code of 1986, as amended. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and minor children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Source: Laws 1983, LB 626, § 42; Laws 1991, LB 253, § 43; Laws 1993, LB 121, § 356; Laws 2005, LB 90, § 17; Laws 2015, LB515, § 1.

58-246 Agricultural projects; loan reports; public information; borrower's name omitted.

The reports required pursuant to section 58-245 shall be public information. No such report shall reveal the name of any individual borrower. The authority shall, following the close of each fiscal year, deliver to the Governor and to the Clerk of the Legislature a set of the individual reporting forms from the preceding year together with the report required pursuant to subsection (2) of section 58-245. The reporting forms and the report submitted to the Clerk of the Legislature shall be submitted electronically. Any member of the Legislature shall receive an electronic copy of such reports by making a request to the chairperson of the authority.

Source: Laws 1983, LB 626, § 46; Laws 1991, LB 253, § 47; Laws 2012, LB782, § 85.

58-270 Authority; reports; contents; audit; issuance of bonds; notices.

(1) The authority shall, following the close of each fiscal year, submit a report of its activities for the preceding year to the Governor and the Clerk of the Legislature. The report submitted to the Clerk of the Legislature shall be submitted electronically. Each member of the Legislature shall receive an electronic copy of such report by making a request for it to the chairperson of the authority. Each report shall set forth a complete operating and financial statement for the authority during the fiscal year it covers. An independent certified public accountant shall at least once in each year audit the books and accounts of the authority.

(2) At least fourteen days prior to taking any final action to authorize the issuance of bonds to provide financing for projects, the beneficiaries or borrowers of which are not specifically identified, the authority shall notify the Governor, the Clerk of the Legislature, and any news media requesting notification of such proposed issuance of bonds. The notification submitted to the Clerk of the Legislature shall be submitted electronically. Such notice shall include:

(a) The public purposes to be effectuated and the needs to be addressed through the issuance of the bonds;

(b) The manner in which such need was identified;

(c) The anticipated principal amount of the bond issue and the anticipated date of issuance of the bonds;

(d) The anticipated size of any reserve funds; and

(e) The professionals involved in connection with the issuance of the bonds.

(3) Within thirty days following the issuance of bonds subject to subsection (2) of this section, the authority shall notify the Governor and the Clerk of the Legislature of:

(a) The final principal amount of the bonds;

(b) The net interest cost of the bonds;

- (c) The costs of issuance paid and to whom paid;
- (d) The total amount of any reserve funds;
- (e) The net interest cost to the beneficiaries or borrowers; and
- (f) The amount of funds available for loans.

The notification submitted to the Clerk of the Legislature shall be submitted electronically.

(4) With respect to bonds subject to subsection (2) of this section, until ninety-five percent of the proceeds of such bonds to be made available for loans are so used or a corresponding amount of such bonds are redeemed, the authority shall, no less often than quarterly after the issuance of such bonds, report to the Governor and the Clerk of the Legislature the status of the use of the proceeds of such issue of bonds. The report submitted to the Clerk of the Legislature shall be submitted electronically.

Once the notice required pursuant to subsection (2) of this section is filed, nothing in this section shall require the authority to amend or supplement the notice prior to the issuance of the bonds.

(5) The notice and reporting requirements contained in this section shall be deemed satisfied upon good faith compliance by the authority. The failure to comply with any part of this section shall not affect the validity of any bonds issued by the authority.

Source: Laws 1983, LB 626, § 70; Laws 1984, LB 372, § 12; Laws 1991, LB 253, § 67; Laws 2012, LB782, § 86.

ARTICLE 3

SMALL BUSINESS DEVELOPMENT

Section

58-326. Repealed. Laws 2011, LB 4, § 1.

58-326 Repealed. Laws 2011, LB 4, § 1.

ARTICLE 4

RESEARCH AND DEVELOPMENT AUTHORITY

Section

58-443. Repealed. Laws 2011, LB 5, § 1.

58-443 Repealed. Laws 2011, LB 5, § 1.

ARTICLE 7

NEBRASKA AFFORDABLE HOUSING ACT

Section

58-702. Legislative findings.

58-703. Affordable Housing Trust Fund; created; use.

58-706. Affordable Housing Trust Fund; eligible activities.

58-708. Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.

58-711. Information on status of Affordable Housing Trust Fund; report.

58-702 Legislative findings.

The Legislature finds that current economic conditions, lack of available affordable housing, federal housing policies that have placed an increasing

burden on the state, and declining resources at all levels of government adversely affect the ability of Nebraska's citizens to obtain safe, decent, and affordable housing. Lack of affordable housing also affects the ability of communities to maintain and develop viable and stable economies.

Furthermore, the Legislature finds that impediments exist to the construction and rehabilitation of affordable housing. Local codes and state statutes have an important effect on housing's affordability by placing increased costs on developers. Financing affordable housing, especially in rural areas and smaller communities, is becoming increasingly difficult. In addition, existing dilapidated housing stock and industrial buildings are detrimental to new affordable housing development and the general health and safety of people living and working in or around such places. An affordable housing trust fund would assist all Nebraska communities in financing affordable housing projects and other projects which make the community safer for residents.

To enhance the economic development of the state and to provide for the general prosperity of all of Nebraska's citizens, it is in the public interest to assist in the provision of safe, decent, and affordable housing in all areas of the state. The establishment of the Nebraska Affordable Housing Act will assist in creating conditions favorable to meeting the affordable housing needs of the state.

Source: Laws 1996, LB 1322, § 12; Laws 2011, LB388, § 10.

58-703 Affordable Housing Trust Fund; created; use.

The Affordable Housing Trust Fund is created. The fund shall receive money pursuant to section 76-903 and may include revenue from sources recommended by the housing advisory committee established in section 58-704, appropriations from the Legislature, transfers authorized by the Legislature, grants, private contributions, repayment of loans, and all other sources. The Department of Economic Development as part of its comprehensive housing affordability strategy shall administer the Affordable Housing Trust Fund.

Transfers may be made from the Affordable Housing Trust Fund to the General Fund, the Behavioral Health Services Fund, the Lead-Based Paint Hazard Control Cash Fund, the Rural Workforce Housing Investment Fund, and the Site and Building Development Fund at the direction of the Legislature.

Source: Laws 1996, LB 1322, § 13; Laws 1997, LB 864, § 9; Laws 2004, LB 1083, § 100; Laws 2005, LB 40, § 1; Laws 2011, LB388, § 11; Laws 2012, LB969, § 6; Laws 2013, LB199, § 24; Laws 2013, LB214, § 9; Laws 2017, LB518, § 10; Laws 2018, LB945, § 13. Effective date April 5, 2018.

58-706 Affordable Housing Trust Fund; eligible activities.

The following activities are eligible for assistance from the Affordable Housing Trust Fund:

- (1) New construction, rehabilitation, or acquisition of housing to assist low-income and very low-income families;
- (2) Matching funds for new construction, rehabilitation, or acquisition of housing units to assist low-income and very low-income families;

(3) Technical assistance, design and finance services, and consultation for eligible nonprofit community or neighborhood-based organizations involved in the creation of affordable housing;

(4) Matching funds for operating costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's ability to produce affordable housing;

(5) Mortgage insurance guarantees for eligible projects;

(6) Acquisition of housing units for the purpose of preservation of housing to assist low-income or very low-income families;

(7) Projects making affordable housing more accessible to families with elderly members or members who have disabilities;

(8) Projects providing housing in areas determined by the Department of Economic Development to be of critical importance for the continued economic development and economic well-being of the community and where, as determined by the department, a shortage of affordable housing exists;

(9) Infrastructure projects necessary for the development of affordable housing;

(10) Downpayment and closing cost assistance;

(11) Demolition of existing vacant, condemned, or obsolete housing or industrial buildings or infrastructure;

(12) Housing education programs developed in conjunction with affordable housing projects. The education programs must be directed toward:

(a) Preparing potential home buyers to purchase affordable housing and postpurchase education;

(b) Target audiences eligible to utilize the services of housing assistance groups or organizations; and

(c) Developers interested in the rehabilitation, acquisition, or construction of affordable housing;

(13) Support for efforts to improve programs benefiting homeless youth; and

(14) Vocational training in the housing and construction trades industries by nonprofit groups.

Source: Laws 1996, LB 1322, § 16; Laws 2004, LB 1083, § 101; Laws 2005, LB 40, § 2; Laws 2011, LB388, § 12; Laws 2011, LB413, § 1; Laws 2013, LB199, § 25.

58-708 Department of Economic Development; selection of projects to receive assistance; duties; recapture funds; when.

(1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall make its best efforts to allocate not less than thirty percent of such funds to each congressional district. The department shall announce a grant and loan application period of at least ninety days duration for all projects. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community’s immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act, serve the lowest income occupant, and are obligated to serve qualified occupants for the longest period of time.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(3) The department may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project. The recaptured funds shall be credited to the Affordable Housing Trust Fund.

Source: Laws 1996, LB 1322, § 18; Laws 2005, LB 40, § 3; Laws 2011, LB388, § 13; Laws 2014, LB800, § 5; Laws 2014, LB906, § 17; Laws 2015, LB457, § 1; Laws 2017, LB217, § 3.

Cross References

Enterprise Zone Act, see section 13-2101.01.

58-711 Information on status of Affordable Housing Trust Fund; report.

The Department of Economic Development shall submit, as part of the department’s annual status report under section 81-1201.11, information detailing the status of the Affordable Housing Trust Fund. The status report shall list (1) the applications funded during the previous calendar year, (2) the applications funded in previous years, (3) the identity of the organizations receiving funds, (4) the location of each project, (5) the amount of funding provided to the project, (6) the amount of funding leveraged as a result of the project, (7) the number of units of housing created by the project and the occupancy rate, (8) the expected cost of rent or monthly payment of those units, (9) the projected number of new employees and community investment as a result of the project, and (10) the amount of revenue deposited into the Affordable Housing Trust Fund pursuant to section 76-903. The status report shall contain no information that is protected by state or federal confidentiality laws.

Source: Laws 1997, LB 864, § 7; Laws 2011, LB404, § 3; Laws 2013, LB214, § 10.

ARTICLE 8

NEBRASKA EDUCATIONAL, HEALTH, AND SOCIAL SERVICES FINANCE AUTHORITY ACT

EDUCATIONAL, HEALTH, AND SOCIAL SERVICES

Section

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58-801 Act, how cited.

Sections 58-801 to 58-866 shall be known and may be cited as the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 2; Laws 1993, LB 465, § 2; R.S.1943, (1994), § 79-2902; Laws 1995, LB 5, § 2; R.S.1943, (2008), § 85-1701; Laws 2013, LB170, § 1.

58-802 Legislative findings.

The Legislature finds and declares that:

(1) For the benefit of the people of the State of Nebraska, the increase of their commerce, welfare, and prosperity, and the fostering, protection, and improvement of their health and living conditions, it is essential that this and future generations of youth be given the greatest opportunity to learn and to fully develop their intellectual and mental capacities and skills and that there be encouraged, promoted, and supported adequate health, social, and emergency services for the care of and assistance to the people of the state;

(2) To achieve these ends it is of the utmost importance and in the public interest that private institutions of higher education within the state be provided with appropriate additional means of assisting such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills and that private health care institutions and private social services institutions within the state be provided with appropriate additional means of caring for and protecting the public health and welfare;

(3) It is the purpose of the Nebraska Educational, Health, and Social Services Finance Authority Act to provide a measure of assistance and an alternative method of enabling private institutions of higher education, private health care institutions, and private social services institutions in the state to finance the acquisition, construction, improvement, equipment, and renovation of needed educational, health care, and social services facilities and structures and to refund, refinance, or reimburse outstanding indebtedness incurred by them or advances made by them, including advances from an endowment or any other similar fund, for the acquisition, construction, improvement, equipment, or renovation of needed educational, health care, and social services facilities and structures;

(4) The financing and refinancing of educational, health care, and social services facilities, through means other than the appropriation of public funds to private institutions of higher education, private health care institutions, and private social services institutions, as described in the act, is a valid public purpose;

(5) The availability of improved access to health profession schools will benefit the people of the State of Nebraska and improve their health, welfare, and living conditions;

(6) The establishment of a health education loan program, with the proceeds of bonds to be used for the purchase or making of loans to students or certain former students of health profession schools, will improve the access to such schools and assist such persons in meeting the expenses incurred in availing themselves of health education opportunities; and

(7) The establishment of a program to assist private institutions of higher education to provide loans to their full-time students pursuing an academic degree will improve access to higher education and contribute to the health, welfare, and living conditions in Nebraska.

Source: Laws 1981, LB 321, § 1; Laws 1983, LB 159, § 1; Laws 1993, LB 465, § 1; R.S.1943, (1994), § 79-2901; Laws 1995, LB 5, § 1; R.S.1943, (2008), § 85-1702; Laws 2013, LB170, § 2.

58-803 Definitions, where found.

For purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-804 to 58-812 shall apply.

Source: Laws 1981, LB 321, § 3; Laws 1983, LB 159, § 14; Laws 1993, LB 465, § 3; R.S.1943, (1994), § 79-2903; Laws 1995, LB 5, § 3; R.S.1943, (2008), § 85-1703; Laws 2013, LB170, § 3.

58-804 Authority, defined.

Authority means the Nebraska Educational, Health, and Social Services Finance Authority created by the Nebraska Educational, Health, and Social Services Finance Authority Act or any board, body, commission, department, or office succeeding to the principal functions thereof or to whom the powers conferred upon such authority by the act are given by law.

Source: Laws 1981, LB 321, § 4; Laws 1993, LB 465, § 4; R.S.1943, (1994), § 79-2904; Laws 1995, LB 5, § 4; R.S.1943, (2008), § 85-1704; Laws 2013, LB170, § 4.

58-805 Bonds, defined.

Bonds means bonds, notes, or other obligations of the authority issued under the Nebraska Educational, Health, and Social Services Finance Authority Act, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of an eligible institution or any other lawfully pledged security of an eligible institution.

Source: Laws 1981, LB 321, § 8; Laws 1993, LB 465, § 6; R.S.1943, (1994), § 79-2908; Laws 1995, LB 5, § 5; R.S.1943, (2008), § 85-1705; Laws 2013, LB170, § 5.

58-806 Cost, defined.

Cost as applied to a project or any portion thereof financed under the Nebraska Educational, Health, and Social Services Finance Authority Act means all or any part of the cost of acquisition, construction, improvement, equipment, and renovation of all land, buildings, or structures including the

cost of machinery and equipment; finance charges; interest prior to, during, and after completion of such construction for a reasonable period as determined by the authority; reserves for principal and interest; extensions, enlargements, additions, replacements, renovations, and improvements; engineering, financial, and legal services; plans, specifications, studies, surveys, estimates of cost of revenue, administrative expenses, bond issuance costs, and expenses necessary or incidental to determining the feasibility or practicability of constructing the project; and such other expenses as the authority determines may be necessary or incidental to the acquisition, construction, improvement, equipment, and renovation of the project, the financing of such acquisition, construction, improvement, equipment, and renovation, and the placing of the project in operation.

Source: Laws 1981, LB 321, § 7; Laws 1993, LB 465, § 5; R.S.1943, (1994), § 79-2907; Laws 1995, LB 5, § 6; R.S.1943, (2008), § 85-1706; Laws 2013, LB170, § 6.

58-807 Eligible institution, defined.

Eligible institution means a private institution of higher education, a private health care institution, or a private social services institution.

Source: Laws 2013, LB170, § 7.

58-808 Private health care institution, defined.

Private health care institution means any private not-for-profit corporation or institution that (1) is licensed under the Health Care Facility Licensure Act, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 2013, LB170, § 8.

Cross References

Health Care Facility Licensure Act, see section 71-401.

58-809 Private institution of higher education, defined.

Private institution of higher education means a not-for-profit educational institution located within this state which is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, which is authorized by law to provide a program of education beyond the high school level, and which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree; provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree; provides a program of not less than two years in length which is acceptable for full credit toward a bachelor's degree; or offers a two-year program in engineering, mathematics, or the physical or biological

sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, research, medicine, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a regionally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; and

(4) Has a student admissions policy that does not violate any other Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 1981, LB 321, § 9; R.S.1943, (1994), § 79-2909; Laws 1995, LB 5, § 7; Laws 1998, LB 303, § 1; R.S.1943, (2008), § 85-1707; Laws 2013, LB170, § 9.

58-810 Private social services institution, defined.

Private social services institution means any private not-for-profit corporation or institution that (1) provides health, safety, and welfare assistance, including emergency, social, housing, and related support services, to members of the general public in the state, (2) is described in section 501(c)(3) of the Internal Revenue Code and is exempt from federal income taxation under section 501(a) of the Internal Revenue Code, (3) is located within this state and is not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or municipality thereof, and (4) does not violate any Nebraska or federal law against discrimination on the basis of race, color, creed, national origin, ancestry, age, gender, or handicap.

Source: Laws 2013, LB170, § 10.

58-811 Project, defined.

(1) Project means any property located within the state that may be used or will be useful in connection with the instruction, feeding, recreation, or housing of students, the provision of health care services to members of the general public, the provision of social services to members of the general public, the conducting of research, administration, or other work of an eligible institution, or any combination of the foregoing. Project includes, but is not limited to, an academic facility, administrative facility, agricultural facility, assembly hall, assisted-living facility, athletic facility, auditorium, campus, communication facility, congregate care housing, emergency services facility, exhibition hall, health care facility, health service institution, hospital, housing for faculty and other staff, instructional facility, laboratory, library, maintenance facility, medical clinic, medical services facility, museum, nursing or skilled nursing services facility, offices, parking area, personal care services facility, physical educational facility, recreational facility, research facility, senior, retirement, or home care services facility, social services facility, stadium, storage facility, student facility, student health facility, student housing, student union, theatre, or utility facility.

(2) Project also means and includes the refunding or refinancing of outstanding obligations, mortgages, or advances, including advances from an endowment or similar fund, originally issued, made, or given by the eligible institution to finance the cost of a project or projects, and including the financing of

eligible swap termination payments, whenever the authority finds that such refunding or refinancing is in the public interest and either:

- (a) Alleviates a financial hardship upon the eligible institution;
- (b) Results in a lesser cost of education, health care, housing, or social and related support services to the eligible institution's students, patients, residents, clients, and other general public consumers; or
- (c) Enables the eligible institution to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 5; R.S.1943, (1994), § 79-2905; Laws 1995, LB 5, § 8; R.S.1943, (2008), § 85-1708; Laws 2013, LB170, § 11.

58-812 Property, defined.

Property means the real estate upon which a project is or will be located, including equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not including such items as fuel, supplies, or other items that are customarily deemed to result in a current operation charge. Property does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship nor any property which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis, or other professional persons in the field of religion.

Source: Laws 1981, LB 321, § 6; R.S.1943, (1994), § 79-2906; Laws 1995, LB 5, § 9; R.S.1943, (2008), § 85-1709; Laws 2013, LB170, § 12.

58-813 Nebraska Educational, Health, and Social Services Finance Authority; created.

There is hereby created a body politic and corporate to be known as the Nebraska Educational, Health, and Social Services Finance Authority. The authority is constituted a public instrumentality, and the exercise by the authority of the powers conferred by the Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed and held to be the performance of an essential public function of the state.

Source: Laws 1981, LB 321, § 10; Laws 1993, LB 465, § 7; R.S.1943, (1994), § 79-2910; Laws 1995, LB 5, § 10; R.S.1943, (2008), § 85-1710; Laws 2013, LB170, § 13.

58-814 Authority; members; qualifications; appointment; terms; removal.

(1) The authority shall consist of seven members, to be appointed by the Governor, who shall be residents of the state, not more than four of whom shall be members of the same political party.

(2) Of the seven members:

(a) At least one shall be a trustee, director, officer, or employee of one or more private institutions of higher education in the state;

(b) At least one shall be a person having a favorable reputation for skill, knowledge, and experience in the field of finance;

(c) At least one shall be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the educational building construction field;

(d) At least one shall be a person experienced in and having a favorable reputation in the field of public accounting;

(e) After the initial appointment provided for in subdivision (3)(a) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private health care institutions in the state; and

(f) After the initial appointment provided for in subdivision (3)(b) of this section is made, at least one shall be a trustee, director, officer, or employee of one or more private social services institutions in the state.

(3) The initial appointments of the members described in subdivisions (2)(e) and (2)(f) of this section shall be made as follows:

(a) For the first member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(e) of this section; and

(b) For the second member whose term expires after September 6, 2013, and who is not the sole member described in subdivision (2)(a), (2)(b), (2)(c), or (2)(d) of this section, the Governor shall appoint a successor who meets the qualifications described in subdivision (2)(f) of this section.

(4) The members of the authority first appointed shall serve for terms expiring as follows: One on December 31, 1982; two on December 31, 1983; two on December 31, 1984; and two on December 31, 1985, respectively, the term of each such member to be designated by the Governor. Upon the expiration of the term of any member, his or her successor shall be appointed for a term of four years and until a successor has been appointed and qualified. The Governor shall fill any vacancy for the remainder of the unexpired term. Any member of the authority may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be expressly waived in writing by the accused member. Each member shall be eligible for reappointment to a successive term but shall be declared ineligible for three consecutive full terms.

Source: Laws 1981, LB 321, § 11; Laws 1984, LB 644, § 1; R.S.1943, (1994), § 79-2911; Laws 1995, LB 5, § 11; R.S.1943, (2008), § 85-1711; Laws 2013, LB170, § 14.

58-815 Authority; officers; executive director; compensation; receive contributions.

Each year the authority shall elect one of its members as chairperson and another member as vice-chairperson. It may appoint an executive director and assistant executive director, who shall not be members of the authority but who shall serve at the pleasure of the authority. An assistant executive director shall perform the duties of the executive director in the event of the absence or inability to act of the executive director. They shall receive such compensation as shall be fixed by the authority. The authority may receive contributions to fund any of the expenses of the authority from private donors, including any

one or more of the eligible institutions or any one or more associations representing the eligible institutions.

Source: Laws 1981, LB 321, § 12; Laws 1993, LB 465, § 8; R.S.1943, (1994), § 79-2912; Laws 1995, LB 5, § 12; R.S.1943, (2008), § 85-1712; Laws 2013, LB170, § 15.

58-816 Authority; keep records and accounts; seal; certified copies.

The executive director, assistant executive director, or any other person designated by resolution of the authority shall keep records and accounts of all proceedings and financial dealings of the authority, shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal, and shall be custodian of all funds of the authority. The executive director, assistant executive director, or other designated person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

Source: Laws 1981, LB 321, § 13; R.S.1943, (1994), § 79-2913; Laws 1995, LB 5, § 13; R.S.1943, (2008), § 85-1713; Laws 2013, LB170, § 16.

58-817 Authority; quorum; actions; vacancy; effect; meetings.

Four members of the authority shall constitute a quorum. The affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the Nebraska Educational, Health, and Social Services Finance Authority Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Members of the authority may participate in a regular or special meeting of the authority by telephone conference call or videoconference as long as the chairperson or vice-chairperson conducts the meeting at a location where the public is able to participate by attendance at that location and the telephone conference call or videoconference otherwise conforms to the requirements of subdivisions (2)(a) through (e) of section 84-1411.

Source: Laws 1981, LB 321, § 14; Laws 1984, LB 644, § 2; Laws 1993, LB 465, § 9; R.S.1943, (1994), § 79-2914; Laws 1995, LB 5, § 14; R.S.1943, (2008), § 85-1714; Laws 2013, LB170, § 17.

58-818 Authority; officers, members, and employees; surety bond requirements.

Before the issuance of any bonds under the Nebraska Educational, Health, and Social Services Finance Authority Act, the chairperson, vice-chairperson, executive director, and assistant executive director, if any, and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in such amount as a majority of the members of the authority determine, or alternatively, the chairperson of the authority shall execute a blanket bond effecting such coverage. Each surety bond shall be conditioned upon the faithful performance

of the duties of the office or offices covered and shall be executed by a surety company authorized to transact business in this state, and the cost of each such surety bond shall be paid by the authority.

Source: Laws 1981, LB 321, § 15; Laws 1993, LB 465, § 10; R.S.1943, (1994), § 79-2915; Laws 1995, LB 5, § 15; R.S.1943, (2008), § 85-1715; Laws 2013, LB170, § 18.

58-819 Authority; members; expenses.

The members of the authority shall receive no compensation for the performance of their duties as members, but each such member shall be paid his or her actual and necessary expenses while engaged in the performance of such duties as provided in sections 81-1174 to 81-1177 from any funds legally available therefor.

Source: Laws 1981, LB 321, § 16; R.S.1943, (1994), § 79-2916; Laws 1995, LB 5, § 16; R.S.1943, (2008), § 85-1716; Laws 2013, LB170, § 19.

58-820 Authority member or employee; conflict of interest; abstention.

Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, health care institution, social services institution, financial institution, commercial bank or trust company, architecture firm, insurance company, or any firm, person, or corporation to serve as a member of the authority, but such trustee, director, officer, or employee shall abstain from any deliberation or action by the authority when the business affiliation of any such trustee, director, officer, or employee is involved. The executive director may serve less than full time. If the executive director serves less than full time, his or her other employment, if any, shall be reviewed by the members of the authority for potential conflicts of interest and whether such other employment would prevent the executive director from fully discharging his or her duties. No member of the authority may be a representative of a bank, investment banking firm, or other financial institution that underwrites the bonds of the authority.

Source: Laws 1981, LB 321, § 17; R.S.1943, (1994), § 79-2917; Laws 1995, LB 5, § 17; R.S.1943, (2008), § 85-1717; Laws 2013, LB170, § 20.

58-821 Authority; purpose.

The purpose of the authority shall be to assist eligible institutions in the acquisition, construction, improvement, equipment, renovation, financing, and refinancing of projects and to administer and operate the Nebraska Health Education Assistance Loan Program as provided in sections 58-857 to 58-862 and the Nebraska Student Loan Assistance Program as provided in sections 58-863 to 58-865.

Source: Laws 1981, LB 321, § 18; Laws 1983, LB 159, § 3; Laws 1993, LB 465, § 11; R.S.1943, (1994), § 79-2918; Laws 1995, LB 5, § 18; R.S.1943, (2008), § 85-1718; Laws 2013, LB170, § 21.

58-822 Authority; perpetual succession; bylaws.

The authority shall have perpetual succession as a body politic and corporate and may adopt bylaws for the regulation of its affairs and the conduct of its business.

Source: Laws 1981, LB 321, § 19; R.S.1943, (1994), § 79-2919; Laws 1995, LB 5, § 19; R.S.1943, (2008), § 85-1719; Laws 2013, LB170, § 22.

58-823 Authority; adopt seal.

The authority may adopt an official seal and alter the same at its pleasure.

Source: Laws 1981, LB 321, § 20; R.S.1943, (1994), § 79-2920; Laws 1995, LB 5, § 20; R.S.1943, (2008), § 85-1720; Laws 2013, LB170, § 23.

58-824 Authority; office; location.

The authority may maintain an office at such place or places within Nebraska as it may designate.

Source: Laws 1981, LB 321, § 21; R.S.1943, (1994), § 79-2921; Laws 1995, LB 5, § 21; R.S.1943, (2008), § 85-1721; Laws 2013, LB170, § 24.

58-825 Authority; sue and be sued.

The authority may sue and be sued in its own name.

Source: Laws 1981, LB 321, § 22; R.S.1943, (1994), § 79-2922; Laws 1995, LB 5, § 22; R.S.1943, (2008), § 85-1722; Laws 2013, LB170, § 25.

58-826 Authority; powers over project.

The authority may determine the location and character of any project to be financed or refinanced under the Nebraska Educational, Health, and Social Services Finance Authority Act and acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same. The authority may also enter into contracts for any or all of such purposes, enter into contracts for the management and operation of a project, and designate an eligible institution as its agent to determine the location and character of a project undertaken by such eligible institution under the act and, as the agent of the authority, to acquire, construct, reconstruct, improve, equip, remodel, renovate, replace, maintain, repair, operate, lease as lessee or lessor, and regulate the same and, as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

Source: Laws 1981, LB 321, § 23; Laws 1993, LB 465, § 12; R.S.1943, (1994), § 79-2923; Laws 1995, LB 5, § 23; R.S.1943, (2008), § 85-1723; Laws 2013, LB170, § 26.

58-827 Authority; issuance of bonds authorized.

The authority may issue bonds of the authority for any of its corporate purposes and fund or refund the same pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 24; Laws 1993, LB 465, § 13; R.S.1943, (1994), § 79-2924; Laws 1995, LB 5, § 24; R.S.1943, (2008), § 85-1724; Laws 2013, LB170, § 27.

58-828 Authority; charge for services.

The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by an eligible institution for its students, patients, residents, clients, or other consumers other than to require that such rates, rents, fees, and charges by such eligible institution be sufficient to discharge such institution's obligation to the authority.

Source: Laws 1981, LB 321, § 25; Laws 1993, LB 121, § 520; R.S.1943, (1994), § 79-2925; Laws 1995, LB 5, § 25; R.S.1943, (2008), § 85-1725; Laws 2013, LB170, § 28.

58-829 Authority; rules and regulations for use of project; designate agent.

The authority may establish rules and regulations for the use of a project or any portion thereof and designate an eligible institution as its agent to establish rules and regulations for the use of a project undertaken by such eligible institution.

Source: Laws 1981, LB 321, § 26; R.S.1943, (1994), § 79-2926; Laws 1995, LB 5, § 26; R.S.1943, (2008), § 85-1726; Laws 2013, LB170, § 29.

58-830 Authority; personnel.

The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and finance experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and fix their compensation.

Source: Laws 1981, LB 321, § 27; R.S.1943, (1994), § 79-2927; Laws 1995, LB 5, § 27; R.S.1943, (2008), § 85-1727; Laws 2013, LB170, § 30.

58-831 Authority; receive loans, grants, and contributions.

The authority may receive and accept from any source loans or grants for or in aid of the acquisition, construction, improvement, equipment, or renovation of a project or any portion thereof, and receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which such loans, grants, aid, or contributions are made.

Source: Laws 1981, LB 321, § 28; R.S.1943, (1994), § 79-2928; Laws 1995, LB 5, § 28; R.S.1943, (2008), § 85-1728; Laws 2013, LB170, § 31.

58-832 Authority; mortgage of certain property.

The authority may mortgage all or any portion of any project or any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness or to reimburse an endowment or any similar fund of an eligible institution as permitted by the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 29; Laws 1993, LB 465, § 14; R.S.1943, (1994), § 79-2929; Laws 1995, LB 5, § 29; R.S.1943, (2008), § 85-1729; Laws 2013, LB170, § 32.

58-833 Authority; loans authorized; limitation.

The authority may make loans to any eligible institution for the cost of any project or in anticipation of the receipt of tuition or other revenue by the eligible institution in accordance with an agreement between the authority and such eligible institution, except that (1) no such loan shall exceed the total cost of such project as determined by such eligible institution and approved by the authority and (2) any loan made in anticipation of the receipt of tuition or other revenue shall not exceed the anticipated amount of tuition or other revenue to be received by the eligible institution in the one-year period following the date of such loan.

Source: Laws 1981, LB 321, § 30; R.S.1943, (1994), § 79-2930; Laws 1995, LB 5, § 30; Laws 2003, LB 107, § 1; R.S.1943, (2008), § 85-1730; Laws 2013, LB170, § 33.

58-834 Authority; issue bonds; make loans; conditions.

The authority may issue bonds and make loans to an eligible institution and refund or reimburse outstanding obligations, mortgages, or advances, including advances from an endowment or any similar fund, issued, made, or given by such eligible institution for the cost of a project, including the power to issue bonds and make loans to an eligible institution to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior thereto whenever the authority has received a written letter of intent to underwrite, place, or purchase the bonds from a financial institution having the powers of an investment bank, commercial bank, or trust company and finds that such financing or refinancing is in the public interest, and either: (1) Alleviates a financial hardship upon the eligible institution; (2) results in a lesser cost of education, health care services, or social services; or (3) enables the eligible institution to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

Source: Laws 1981, LB 321, § 31; R.S.1943, (1994), § 79-2931; Laws 1995, LB 5, § 31; R.S.1943, (2008), § 85-1731; Laws 2013, LB170, § 34.

58-835 Authority; administrative costs; apportionment.

The authority may charge to and equitably apportion among participating eligible institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 32; Laws 1993, LB 465, § 15; R.S.1943, (1994), § 79-2932; Laws 1995, LB 5, § 32; R.S.1943, (2008), § 85-1732; Laws 2013, LB170, § 35.

58-836 Authority; general powers; joint projects.

The authority may do all things necessary or convenient to carry out the purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act.

In carrying out the purposes of the act, the authority may undertake a project for two or more eligible institutions jointly, or for any combination thereof, and thereupon all other provisions of the act shall apply to and be for the benefit of the authority and such joint participants.

Source: Laws 1981, LB 321, § 33; Laws 1993, LB 465, § 16; R.S.1943, (1994), § 79-2933; Laws 1995, LB 5, § 33; R.S.1943, (2008), § 85-1733; Laws 2013, LB170, § 36.

58-837 Authority; combine and substitute projects; bonds; additional series.

Notwithstanding any other provision contained in the Nebraska Educational, Health, and Social Services Finance Authority Act, the authority may combine for financing purposes, with the consent of all of the eligible institutions which are involved, the project or projects and some or all future projects of any eligible institutions, but the money set aside in any fund or funds pledged for any series or issue of bonds shall be held for the sole benefit of such series or issue separate and apart from any money pledged for any other series or issue of bonds of the authority. To facilitate the combining of projects, bonds may be issued in series under one or more resolutions or trust indentures and be fully open end, thus providing for the unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any other provision of the act to the contrary, the authority may, in its discretion, permit an eligible institution to substitute one or more projects of equal value, as determined by an independent appraiser satisfactory to the authority, for any project financed under the act on such terms and subject to such conditions as the authority may prescribe.

Source: Laws 1981, LB 321, § 34; Laws 1993, LB 465, § 17; R.S.1943, (1994), § 79-2934; Laws 1995, LB 5, § 34; R.S.1943, (2008), § 85-1734; Laws 2013, LB170, § 37.

58-838 Expenses; how paid; liability; limitation.

All expenses incurred in carrying out the Nebraska Educational, Health, and Social Services Finance Authority Act shall be payable solely from funds provided under the act, and no liability or obligation shall be incurred by the authority beyond the extent to which money has been provided under the act.

Source: Laws 1981, LB 321, § 35; Laws 1993, LB 465, § 18; R.S.1943, (1994), § 79-2935; Laws 1995, LB 5, § 35; R.S.1943, (2008), § 85-1735; Laws 2013, LB170, § 38.

58-839 Authority; acquisition of property.

The authority is authorized and empowered, directly or by and through an eligible institution, as its agent, to acquire by purchase, gift, or devise, such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands, and including existing facilities of an eligible institution, as it may deem necessary or convenient for the acquisition, construction, improvement, equipment, renovation, or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of an eligible institution as its agent.

Source: Laws 1981, LB 321, § 36; R.S.1943, (1994), § 79-2936; Laws 1995, LB 5, § 36; R.S.1943, (2008), § 85-1736; Laws 2013, LB170, § 39.

58-840 Authority; financing obligations completed; convey title to eligible institution.

When the principal of and interest on bonds of the authority issued to finance the cost of a particular project or projects for an eligible institution, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution and any trust indenture authorizing the same have been satisfied and the lien created by such resolution or trust indenture has been released in accordance with the provisions thereof, the authority shall promptly do such things and execute such deeds, conveyances, and other instruments, if any, as are necessary and required to convey title to such project or projects to such eligible institution.

Source: Laws 1981, LB 321, § 37; R.S.1943, (1994), § 79-2937; Laws 1995, LB 5, § 37; R.S.1943, (2008), § 85-1737; Laws 2013, LB170, § 40.

58-841 Authority; bonds; issuance; form; proceeds; how used; replacement; liability; liability insurance; indemnification.

The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of (1) paying, refinancing, or reimbursing all or any part of the cost of a project, (2) administering and operating the Nebraska Health Education Assistance Loan Program and the Nebraska Student Loan Assistance Program, or (3) making loans to any eligible institution in anticipation of the receipt of tuition or other revenue by the eligible institution. Except to the extent payable from payments to be made on securities or federally guaranteed securities as provided in sections 58-844 and 58-845, the principal of and the interest on such bonds shall be payable solely out of the revenue of the authority derived from the project or program to which they relate and from any other facilities or assets pledged or made available therefor by the eligible institution for whose benefit such bonds were issued. The bonds of each issue shall be dated, shall bear interest at such rate or rates, including variations of such rates, without regard to any limit contained in any other statute or law of the State of Nebraska, shall mature at such time or times not exceeding forty years from the date thereof, all as may be determined by the authority, and may be made redeemable before

maturity, at the option of the authority, at such price or prices, which may be at a premium or discount, and under such terms and conditions as may be fixed by the authority in the authorizing resolution and any trust indenture. Except to the extent required by the Nebraska Educational, Health, and Social Services Finance Authority Act and for bonds issued to fund the Nebraska Student Loan Assistance Program, such bonds are to be paid out of the revenue of the project to which they relate and, in certain instances, the revenue of certain other facilities, and subject to the provisions of sections 58-844 and 58-845 with respect to a pledge of securities or government securities, the bonds may be unsecured or secured in the manner and to the extent determined by the authority in its discretion.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the authority, by its chairperson or vice-chairperson or by a facsimile signature of such person, the official seal of the authority or a facsimile thereof shall be affixed thereto or printed or impressed thereon and attested by the manual or facsimile signature of the executive director or assistant executive director of the authority, except that facsimile signatures of members of the authority shall be sufficient only if the resolution or trust indenture requires that the trustee for such bond issue manually authenticate each bond and the resolution or trust indenture permits the use of facsimile signatures, and any coupons attached to the bonds shall bear the facsimile signature of the executive director or assistant executive director of the authority. The resolution or trust indenture authorizing the bonds may provide that the bonds contain a recital that they are issued under the Nebraska Educational, Health, and Social Services Finance Authority Act, and such recital shall be deemed conclusive evidence of the validity of the bonds and the regularity of the issuance. The provisions of section 10-126 shall not apply to bonds issued by the authority. The provisions of section 10-140 shall apply to bonds issued by the authority. In case any official of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such an official before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained an official of the authority until such delivery.

All bonds issued under the act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the State of Nebraska. The bonds may be issued in coupon or in registered form, or both, and one form may be exchangeable for the other in such manner as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds may be sold in such manner, either at public or private sale, as the authority may determine.

The proceeds of the bonds of each issue shall be used solely for the payment of the costs of the project or program for which such bonds have been issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust indenture provided for in section 58-843 securing the

same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed the cost of the project or program for which they were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds or shall be applied as may otherwise be permitted by applicable federal income tax laws relating to the tax exemption of interest.

Prior to the preparation of definitive bonds, the authority may under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

The authority may also provide for the replacement of any bonds which become mutilated or are destroyed or lost. Bonds may be issued under the act without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state and without any other proceedings or conditions other than those proceedings and conditions which are specifically required by the act. The authority may out of any funds available therefor purchase its bonds. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with any agreement with the bondholders.

Members of the authority shall not be liable to the state, the authority, or any other person as a result of their activities, whether ministerial or discretionary, as authority members, except for willful dishonesty or intentional violations of law. Members of the authority and any person executing bonds or policies of insurance shall not be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The authority may purchase liability insurance for members, officers, and employees and may indemnify any authority member to the same extent that a school district may indemnify a school board member pursuant to section 79-516.

Source: Laws 1981, LB 321, § 38; Laws 1983, LB 159, § 4; Laws 1993, LB 465, § 19; R.S.1943, (1994), § 79-2938; Laws 1995, LB 5, § 38; Laws 2003, LB 107, § 2; Laws 2011, LB424, § 1; R.S.Supp.,2012, § 85-1738; Laws 2013, LB170, § 41.

58-842 Bond issuance; resolution; provisions enumerated.

Any resolution or resolutions authorizing any bonds or any issue of bonds and any trust indenture securing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to (1) pledging or assigning the revenue of the project or loan with respect to which such bonds are to be issued or the revenue of any other property, facilities, or loans, (2) the rentals, fees, loan payments, and other amounts to be charged, the amounts to be raised in each year thereby, and the use and disposition of such amounts, (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof, (4) limitations on the use of the project, (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the

payment of the bonds or any issue of the bonds, (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds, (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given, (8) limitations on the amount of money derived from the project or loan to be expended for operating, administrative, or other expenses of the authority, (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, (10) the mortgaging of a project and the site thereof or any other property for the purpose of securing the bondholders, and (11) any other matters relating to the bonds which the authority deems desirable.

Source: Laws 1981, LB 321, § 39; Laws 1983, LB 159, § 5; R.S.1943, (1994), § 79-2939; Laws 1995, LB 5, § 39; R.S.1943, (2008), § 85-1739; Laws 2013, LB170, § 42.

58-843 Bonds; secured by trust indenture; contents; expenses; how treated.

In the discretion of the authority any bonds issued under the Nebraska Educational, Health, and Social Services Finance Authority Act may be secured by a trust indenture, which trust indenture may be in the form of a bond resolution or similar contract, by and between the authority and a corporate trustee or trustees which may be any financial institution having the power of a trust company or any trust company within or outside the state. Such trust indenture providing for the issuance of such bonds may pledge or assign the revenue to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. The trust indenture by which a pledge is created or an assignment made shall be filed in the records of the authority.

Any pledge or assignment made by the authority pursuant to this section shall be valid and binding from the time that the pledge or assignment is made, and the revenue so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or any further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof.

Such trust indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, may restrict the individual right of action by bondholders, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee or trustees as may be reasonable and proper, not in violation of law, or provided for in the Nebraska Educational, Health, and Social Services Finance Authority Act. Any such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

Any bank or trust company which acts as depository of the proceeds of the bonds, any revenue, or other money shall furnish such indemnifying bonds or pledge such securities as may be required by the authority.

All expenses incurred in carrying out the provisions of such trust indenture may be treated as a part of the cost of the operation of a project.

Source: Laws 1981, LB 321, § 40; Laws 1993, LB 465, § 20; R.S.1943, (1994), § 79-2940; Laws 1995, LB 5, § 40; R.S.1943, (2008), § 85-1740; Laws 2013, LB170, § 43.

58-844 Bonds issued to purchase securities of eligible institution; provisions applicable.

In addition to any other methods of financing authorized in the Nebraska Educational, Health, and Social Services Finance Authority Act, the authority may finance the cost of a project or program, refund outstanding indebtedness, or reimburse advances from an endowment or any similar fund of an eligible institution as authorized by section 58-834 by issuing its bonds for the purpose of purchasing the securities of the eligible institution. Any such securities shall have the same principal amounts, maturities, and interest rates as the bonds being issued, may be secured by a first mortgage lien on or security interest in any real or personal property, subject to such exceptions as the authority may approve and created by a mortgage or security instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust indenture securing such bonds, shall be payable solely out of the payments to be made on such securities, and shall not exceed in principal amount the cost of such project or program, the refunding of such indebtedness, or reimbursement of such advances as determined by the eligible institution and approved by the authority. In other respects any such bonds shall be subject to the act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain any of the provisions set forth in section 58-843 as the authority may consider appropriate.

If a project is financed pursuant to this section, the title to such project shall remain in the eligible institution owning such project, subject to the lien of the mortgage or security interest, if any, securing the securities then being purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the issuance of bonds pursuant to this section to the eligible institution issuing such securities when such bonds have been fully paid and retired or when adequate provision has been made to pay and retire such bonds fully and all other conditions of the trust indenture securing such bonds have been satisfied and any lien established pursuant to this section has been released in accordance with the provisions of the trust indenture.

Source: Laws 1981, LB 321, § 41; Laws 1993, LB 465, § 21; R.S.1943, (1994), § 79-2941; Laws 1995, LB 5, § 41; R.S.1943, (2008), § 85-1741; Laws 2013, LB170, § 44.

58-845 Bonds issued to acquire federally guaranteed securities; provisions applicable.

Notwithstanding any other provision of the Nebraska Educational, Health, and Social Services Finance Authority Act to the contrary, the authority may finance the cost of a project or program, refund outstanding indebtedness, or

reimburse advances from any endowment or any similar fund of an eligible institution as authorized by the act, by issuing its bonds pursuant to a plan of financing involving the acquisition of any federally guaranteed security or securities or the acquisition or entering into of commitments to acquire any federally guaranteed security or securities. For purposes of this section, federally guaranteed security means any direct obligation of or obligation the principal of and interest on which are fully guaranteed or insured by the United States of America or any obligation issued by or the principal of and interest on which are fully guaranteed or insured by any agency or instrumentality of the United States of America, including without limitation any such obligation that is issued pursuant to the National Housing Act, or any successor provision of law, each as amended from time to time.

In furtherance of the powers granted in this section, the authority may acquire or enter into commitments to acquire any federally guaranteed security and pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment of any of its bonds issued to finance or refinance a project or program or may enter into any appropriate agreement with any eligible institution whereby the authority may make a loan to any such eligible institution for the purpose of acquiring or entering into commitments to acquire any federally guaranteed security.

Any agreement entered into pursuant to this section may contain such provisions as are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds, except that the authority, prior to making any such acquisition, commitment, or loan, shall first determine and enter into an agreement with any such eligible institution or any other appropriate institution or corporation to require that the proceeds derived from the acquisition of any such federally guaranteed security will be used, directly or indirectly, for the purpose of financing or refinancing a project or program.

Any bonds issued pursuant to this section shall not exceed in principal amount the cost of financing or refinancing such project or program as determined by the participating eligible institution and approved by the authority, except that such costs may include, without limitation, all costs and expenses necessary or incidental to the acquisition of or commitment to acquire any federally guaranteed security and to the issuance and obtaining of any insurance or guarantee of any obligation issued or incurred in connection with any federally guaranteed security. In other respects any such bonds shall be subject to the Nebraska Educational, Health, and Social Services Finance Authority Act, including sections 58-841 and 58-842, and the trust indenture securing such bonds may contain such of the provisions set forth in section 58-843 as the authority may deem appropriate.

If a project is financed or refinanced pursuant to this section, the title to such project shall remain in the participating eligible institution owning the project, subject to the lien of any mortgage or security interest securing, directly or indirectly, the federally guaranteed securities then being purchased or to be purchased, and there shall be no lease of such facility between the authority and such eligible institution.

Section 58-840 shall not apply to any project financed pursuant to this section, but the authority shall return the securities purchased through the

issuance of bonds pursuant to this section to the issuer of such securities when such securities have been fully paid, when such bonds have been fully paid and retired, or when adequate provision, not involving the application of such securities, has been made to pay and retire such bonds fully, all other conditions of the trust indenture securing such bonds have been satisfied, and the lien on such bonds has been released in accordance with the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1981, LB 321, § 42; Laws 1993, LB 465, § 22; R.S.1943, (1994), § 79-2942; Laws 1995, LB 5, § 42; R.S.1943, (2008), § 85-1742; Laws 2013, LB170, § 45.

58-846 Refunding bonds; issuance authorized; provisions applicable.

The authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued by it under the Nebraska Educational, Health, and Social Services Finance Authority Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity or earlier redemption of such bonds, and, in the case of a project and if deemed advisable by the authority, for the additional purposes of acquiring, constructing, improving, equipping, and renovating improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded were issued and of paying any expenses which the authority determines may be necessary or incidental to the issuance of such refunding bonds and the acquiring, constructing, improving, equipping, and renovating of such improvements, extensions, or enlargements. Such refunding bonds shall be payable solely out of the revenue of the project, including any such improvements, extensions, or enlargements thereto, or program to which the bonds being refunded relate or as otherwise described in sections 58-841, 58-844, 58-845, 58-860, and 58-861. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, the rights, duties, and obligations of the authority with respect to such bonds, and the manner of sale thereof shall be governed by the act insofar as applicable.

The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or earlier redemption of such outstanding bonds either on their earliest or any subsequent redemption date, upon the purchase of such bonds, or at the maturity of such bonds and may, pending such application, be placed in escrow to be applied to such purchase, retirement at maturity, or earlier redemption.

Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America or obligations the timely payment of principal and interest on which is fully guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out may any balance of such proceeds, interest, income, or profits earned or realized on the

investments thereof be returned to the eligible institution for whose benefit the refunded bonds were issued for use by it in any lawful manner.

All such bonds shall be subject to the act in the same manner and to the same extent as other revenue bonds issued pursuant to the act.

Source: Laws 1981, LB 321, § 43; Laws 1983, LB 159, § 6; Laws 1993, LB 465, § 23; R.S.1943, (1994), § 79-2943; Laws 1995, LB 5, § 43; R.S.1943, (2008), § 85-1743; Laws 2013, LB170, § 46.

58-847 Bond issuance; state or political subdivision; no obligation; statement; expenses.

Bonds issued pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be a limited obligation of the authority payable solely from the funds, securities, or government securities pledged for their payment as authorized in the act unless such bonds are refunded by refunding bonds issued under the act, which refunding bonds shall be payable solely from funds, securities, or government securities pledged for their payment as authorized in the act. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Nebraska or of any political subdivision thereof but are limited obligations of the authority payable solely from revenue, securities, or government securities, as the case may be, pledged for their payment. All expenses incurred in carrying out the act shall be payable solely from funds provided under the authority of the act, and nothing contained in the act shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

Source: Laws 1981, LB 321, § 44; Laws 1993, LB 465, § 24; R.S.1943, (1994), § 79-2944; Laws 1995, LB 5, § 44; R.S.1943, (2008), § 85-1744; Laws 2013, LB170, § 47.

58-848 Authority; rents or loan payments; use.

Except for projects financed or refinanced pursuant to sections 58-844 and 58-845, the authority shall fix, revise, charge, and collect rents or loan payments for the use of or payment for each project and contract with any eligible institution in respect thereof. Each lease or loan agreement entered into by the authority with an eligible institution shall provide that the rents or loan payments payable by the eligible institution shall be sufficient at all times (1) to pay the eligible institution's share of the administrative costs and expenses of the authority, (2) to pay the authority's cost, if any, of maintaining, repairing, and operating the project and each and every portion thereof, (3) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued with respect to such project as the same shall become due and payable, and (4) to create and maintain reserves which may be provided for in the resolution or trust indenture relating to such bonds of the authority.

With respect to projects financed pursuant to sections 58-844 and 58-845, the authority shall require the eligible institution involved to enter into loan or

other financing agreements obligating such eligible institution to make payments sufficient to accomplish the purposes described in this section.

Source: Laws 1981, LB 321, § 45; R.S.1943, (1994), § 79-2945; Laws 1995, LB 5, § 45; R.S.1943, (2008), § 85-1745; Laws 2013, LB170, § 48.

58-849 Money received by authority; deemed trust funds; investment.

All money received by the authority, whether as proceeds from the sale of bonds, from revenue, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in the Nebraska Educational, Health, and Social Services Finance Authority Act but, prior to the time when needed for use, may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States of America, obligations issued by agencies of the United States of America, any obligations of the United States of America or agencies thereof, obligations of this state, or any obligations or securities which may from time to time be legally purchased by governmental subdivisions of this state pursuant to subsection (1) of section 77-2341, except that any funds pledged to secure a bond issue shall be invested in the manner permitted by the resolution or trust indenture securing such bonds. Such funds shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state or in national banking associations. The money in such accounts shall be paid out on checks signed by the executive director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies may give security for the deposits, except to the extent provided otherwise in the resolution authorizing the issuance of the related bonds or in the trust indenture securing such bonds. The resolution authorizing the issuance of such bonds or the trust indenture securing such bonds shall provide that any officer to whom or any bank or trust company to which such money is entrusted shall act as trustee of such money and shall hold and apply the same for the purposes of the Nebraska Educational, Health, and Social Services Finance Authority Act, subject to the act, and of the authorizing resolution or trust indenture.

Source: Laws 1981, LB 321, § 46; Laws 1993, LB 465, § 25; R.S.1943, (1994), § 79-2946; Laws 1995, LB 5, § 46; R.S.1943, (2008), § 85-1746; Laws 2013, LB170, § 49.

58-850 Bondholders and trustee; enforcement of rights.

Any holder of bonds or of any of the coupons appertaining thereto issued under the Nebraska Educational, Health, and Social Services Finance Authority Act and the trustee under any trust indenture, except to the extent the rights given in the act may be restricted by the resolution or trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state, the act, or such trust indenture or resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by the act or by such trust indenture or resolution to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rents, loan payments, fees, and charges authorized in the act and

required by the provisions of such resolution or trust indenture to be fixed, established, and collected.

Such rights shall include the right to compel the performance of all duties of the authority required by the act or the resolution or trust indenture to enjoin unlawful activities and, in the event of default with respect to the payment of any principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the resolution or trust indenture, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate a project, the revenue of which is pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay and to provide for payment of the principal of and premium, if any, and interest on such bonds, and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenue of the authority to the payment of such principal, premium, and interest, and to foreclose the mortgage on the project in the same manner as the foreclosure of a mortgage on real estate of private corporations.

Source: Laws 1981, LB 321, § 47; Laws 1993, LB 465, § 26; R.S.1943, (1994), § 79-2947; Laws 1995, LB 5, § 47; R.S.1943, (2008), § 85-1747; Laws 2013, LB170, § 50.

58-851 Act, how construed.

The Nebraska Educational, Health, and Social Services Finance Authority Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

Source: Laws 1981, LB 321, § 48; Laws 1993, LB 465, § 27; R.S.1943, (1994), § 79-2948; Laws 1995, LB 5, § 48; R.S.1943, (2008), § 85-1748; Laws 2013, LB170, § 51.

58-852 Authority; journal; public records.

All final actions of the authority shall be recorded in a journal, and the journal and all instruments and documents relating thereto shall be kept on file at the office of the authority and shall be open to the inspection of the public at all reasonable times.

Source: Laws 1981, LB 321, § 49; R.S.1943, (1994), § 79-2949; Laws 1995, LB 5, § 49; R.S.1943, (2008), § 85-1749; Laws 2013, LB170, § 52.

58-853 Authority; public purpose; exemptions from taxation.

The exercise of the powers granted by the Nebraska Educational, Health, and Social Services Finance Authority Act shall be in all respects for the benefit of the people of the state, for the increase of their commerce, welfare, and prosperity, for the fostering, encouragement, protection, and improvement of their health and living conditions, and for the development of their intellectual and mental capacities and skills, and as the operation, maintenance, financing, or refinancing of a project or program by the authority or its agent will constitute the performance of essential governmental functions and serve a public purpose, neither the authority nor its agent shall be required to pay any taxes or assessments, upon or with respect to a project or any property acquired or used by the authority or its agent under the act, upon the income

therefrom, or upon any other amounts received by the authority in respect thereof, including payments of principal of or premium or interest on or in respect of any securities purchased pursuant to section 58-844 or any government securities involved in a plan of financing pursuant to section 58-845. The bonds issued under the act, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity, proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the State of Nebraska for all purposes except the state inheritance tax.

Source: Laws 1981, LB 321, § 50; Laws 1993, LB 465, § 28; R.S.1943, (1994), § 79-2950; Laws 1995, LB 5, § 50; R.S.1943, (2008), § 85-1750; Laws 2013, LB170, § 53.

58-854 Bondholders; pledge; agreement of the state.

The State of Nebraska does hereby pledge to and agree with the holders of any obligations issued under the Nebraska Educational, Health, and Social Services Finance Authority Act and with those parties who may enter into contracts with the authority pursuant to the act that the state will not limit or alter the rights vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, except that nothing contained in this section shall preclude such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority.

Source: Laws 1981, LB 321, § 51; Laws 1993, LB 465, § 29; R.S.1943, (1994), § 79-2951; Laws 1995, LB 5, § 51; R.S.1943, (2008), § 85-1751; Laws 2013, LB170, § 54.

58-855 Act; supplemental to other laws.

The Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in the act and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under the act need not comply with the requirements of any other law applicable to the issuance of bonds, and the acquisition, construction, improvement, equipment, and renovation of a project pursuant to the act by the authority need not comply with the requirements of any competitive bidding law or other restriction imposed on the procedure for award of contracts for the acquisition, construction, improvement, equipment, and renovation of a project or the lease, sale, or disposition of property of the authority, except that if the prospective lessee so requests in writing, the authority shall call for construction bids in such manner as shall be determined by the authority with the approval of such lessee. Except as otherwise expressly provided in the act, none of the powers granted to the authority under the act shall be subject to the supervision of or regulation by or require the approval or consent of any municipality, political subdivision, commission, board, body, bureau, official, or agency or the state.

Source: Laws 1981, LB 321, § 52; Laws 1993, LB 465, § 30; R.S.1943, (1994), § 79-2952; Laws 1995, LB 5, § 52; R.S.1943, (2008), § 85-1752; Laws 2013, LB170, § 55.

58-856 Act; provisions controlling.

To the extent that the Nebraska Educational, Health, and Social Services Finance Authority Act is inconsistent with the provisions of any general statute or special act or parts thereof, the Nebraska Educational, Health, and Social Services Finance Authority Act shall be deemed controlling.

Source: Laws 1981, LB 321, § 53; Laws 1993, LB 465, § 31; R.S.1943, (1994), § 79-2953; Laws 1995, LB 5, § 53; R.S.1943, (2008), § 85-1753; Laws 2013, LB170, § 56.

58-857 Nebraska Health Education Assistance Loan Program; established.

There is hereby established, in accordance with Public Law 94-484, the Nebraska Health Education Assistance Loan Program, to be financed by the authority in the manner provided in the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1983, LB 159, § 7; Laws 1993, LB 465, § 32; R.S.1943, (1994), § 79-2954; Laws 1995, LB 5, § 54; R.S.1943, (2008), § 85-1754; Laws 2013, LB170, § 57.

58-858 Nebraska Health Education Assistance Loan Program; authority; powers.

The authority may:

- (1) Make loans;
- (2) Participate in the financing of loans;
- (3) Purchase or participate in the purchase of loans;
- (4) Sell or participate in the sale of loans;
- (5) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (4) of this section;
- (6) Do all things necessary and convenient to carry out the purposes of sections 58-857 to 58-862 in connection with the administering and servicing of loans, including contracting with any person, firm, or other body, public or private;
- (7) Enter into any agreements necessary to effect the guarantee, insuring, administering, or servicing of loans;
- (8) Adopt and promulgate rules and regulations governing and establish standards for participation in the program created by section 58-857, and establish other administrative procedures consistent with Public Law 94-484; and
- (9) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

Source: Laws 1983, LB 159, § 8; R.S.1943, (1994), § 79-2955; Laws 1995, LB 5, § 55; R.S.1943, (2008), § 85-1755; Laws 2013, LB170, § 58.

58-859 Nebraska Health Education Assistance Loan Program; loans; how funded.

Any loan made, purchased, or caused to be made or purchased pursuant to section 58-858 may be funded with the proceeds of bonds, notes, or other

obligations of the authority issued pursuant to sections 58-857 to 58-862. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority shall deem appropriate and any other provisions, not in violation of law, as the authority shall deem reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans, to purchase loans, to cause loans to be made or purchased, to pay financing costs, including, but not limited to, legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

Source: Laws 1983, LB 159, § 9; R.S.1943, (1994), § 79-2956; Laws 1995, LB 5, § 56; R.S.1943, (2008), § 85-1756; Laws 2013, LB170, § 59.

58-860 Nebraska Health Education Assistance Loan Program; bonds or other obligations; how paid.

Notwithstanding section 58-841, all bonds, notes, or other obligations issued by the authority for the Nebraska Health Education Assistance Loan Program shall be payable out of the revenue generated in connection with loans funded under sections 58-857 to 58-862, or from reserves or other money available for such purpose as may be designated in the resolution of the authority under which the bonds, notes, or other obligations are issued or as may be designated in a trust indenture authorized by the authority.

Source: Laws 1983, LB 159, § 10; R.S.1943, (1994), § 79-2957; Laws 1995, LB 5, § 57; R.S.1943, (2008), § 85-1757; Laws 2013, LB170, § 60.

58-861 Nebraska Health Education Assistance Loan Program; bonds; security.

Notwithstanding section 58-843, the principal of and interest on any bonds issued by the authority for the Nebraska Health Education Assistance Loan Program shall be secured by a pledge of the revenue and other money out of which such principal and interest shall be made payable and may be secured by a trust indenture, mortgage, or deed of trust, including an assignment of a loan or contract right of the authority pursuant to a loan, covering all or any part of a loan from which the revenue or receipts so pledged may be derived.

Source: Laws 1983, LB 159, § 11; R.S.1943, (1994), § 79-2958; Laws 1995, LB 5, § 58; R.S.1943, (2008), § 85-1758; Laws 2013, LB170, § 61.

58-862 Nebraska Health Education Loan Repayment Fund; created; use.

There is hereby created a separate fund, to be known as the Nebraska Health Education Loan Repayment Fund, which shall consist of all revenue generated in connection with loans funded pursuant to the Nebraska Educational, Health, and Social Services Finance Authority Act. The authority may pledge revenue received or to be received by the fund to secure bonds, notes, or other

obligations issued pursuant to the act. The authority may create such subfunds or accounts within the fund as it deems necessary or advisable.

Source: Laws 1983, LB 159, § 12; Laws 1993, LB 465, § 33; R.S.1943, (1994), § 79-2959; Laws 1995, LB 5, § 59; R.S.1943, (2008), § 85-1759; Laws 2013, LB170, § 62.

58-863 Nebraska Student Loan Assistance Program; established.

There is hereby established the Nebraska Student Loan Assistance Program to be financed by the authority in the manner provided in the Nebraska Educational, Health, and Social Services Finance Authority Act.

Source: Laws 1993, LB 465, § 34; R.S.1943, (1994), § 79-2961; Laws 1995, LB 5, § 60; R.S.1943, (2008), § 85-1760; Laws 2013, LB170, § 63.

58-864 Nebraska Student Loan Assistance Program; authority; powers.

The authority may:

(1) Make loans to private institutions of higher education to assist such institutions in providing loans to their full-time students to assist them in financing the cost of their education while taking courses leading to an academic degree;

(2) Participate in the financing of such loans;

(3) Sell or participate in the sale of such loans;

(4) Collect and pay reasonable fees and charges in connection with the exercise of the powers provided in subdivisions (1) through (3) of this section;

(5) Do all things necessary and convenient to carry out the purposes of this section and section 58-865 in connection with the administering of such loans, including contracting with any person, firm, or other body, public or private;

(6) Enter into any agreements necessary to effect the guarantee, insuring, or administering of such loans;

(7) Adopt and promulgate rules and regulations governing and establish standards for participation in the Nebraska Student Loan Assistance Program; and

(8) Exercise all powers incidental to or necessary for the performance of the powers authorized by this section.

Source: Laws 1993, LB 465, § 35; R.S.1943, (1994), § 79-2962; Laws 1995, LB 5, § 61; R.S.1943, (2008), § 85-1761; Laws 2013, LB170, § 64.

58-865 Nebraska Student Loan Assistance Program; loans; how funded.

Any loan made or caused to be made or purchased pursuant to section 58-864 may be funded with the proceeds of bonds, notes, or other obligations of the authority issued pursuant to this section and sections 58-841, 58-846, 58-863, and 58-864. The resolution or trust indenture creating such bonds, notes, or other obligations may contain any of the provisions specified in section 58-843 as the authority deems appropriate and any other provisions, not in violation of law, as the authority deems reasonable and proper for the security of the holders of such bonds, notes, or other obligations.

The proceeds of any such bonds, notes, or other obligations may be used and applied by the authority to make loans to such institutions and cause loans to be made by the institutions to their qualified students, to pay financing costs, including legal, underwriting, investment banking, accounting, rating agency, printing, and other similar costs, to fund any reserve funds deemed necessary or advisable by the authority, to pay interest on such bonds, notes, or other obligations for any period deemed necessary or advisable by the authority, and to pay all other necessary and incidental costs and expenses.

Source: Laws 1993, LB 465, § 36; R.S.1943, (1994), § 79-2963; Laws 1995, LB 5, § 62; R.S.1943, (2008), § 85-1762; Laws 2013, LB170, § 65.

58-866 Change in name; effect.

(1) It is the intent of the Legislature that the changes made by Laws 1993, LB 465, in the name of the Nebraska Educational Facilities Authority Act to the Nebraska Educational Finance Authority Act and in the name of the Nebraska Educational Facilities Authority to the Nebraska Educational Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 9, 1993.

(2) It is the intent of the Legislature that the changes made by Laws 2013, LB170, in the name of the Nebraska Educational Finance Authority Act to the Nebraska Educational, Health, and Social Services Finance Authority Act and in the name of the Nebraska Educational Finance Authority to the Nebraska Educational, Health, and Social Services Finance Authority shall not affect or alter any rights, privileges, or obligations existing immediately prior to September 6, 2013.

Source: Laws 1993, LB 465, § 37; R.S.1943, (1994), § 79-2964; Laws 1995, LB 5, § 63; R.S.1943, (2008), § 85-1763; Laws 2013, LB170, § 66.

CHAPTER 59

MONOPOLIES AND UNLAWFUL COMBINATIONS

Article.

14. Musical Compositions. 59-1401 to 59-1406.
15. Cigarette Sales.
 - (b) Grey Market Sales. 59-1520, 59-1523.
16. Consumer Protection Act. 59-1608.04 to 59-1614.
17. Seller-Assisted Marketing Plan. 59-1722, 59-1724.

ARTICLE 14

MUSICAL COMPOSITIONS

Section

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|-------------|--|
| 59-1401. | Act, how cited. |
| 59-1402. | Terms, defined. |
| 59-1403. | License; tax; Department of Revenue; rules and regulations. |
| 59-1403.01. | Music licensing agency; registration; fine. |
| 59-1403.02. | Music licensing agency; duties; contract requirements. |
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| 59-1403.05. | Act, how construed. |
| 59-1404. | Copyright owner; assigns; licensees; benefits. |
| 59-1405. | Discrimination in price; price changes; exceptions. |
| 59-1406. | Violations; penalty. |

59-1401 Act, how cited.

Sections 59-1401 to 59-1406 shall be known and may be cited as the Music Licensing Agency Act.

Source: Laws 1945, c. 139, § 1, p. 439; Laws 1993, LB 121, § 376; Laws 2018, LB1120, § 30.
Effective date July 19, 2018.

59-1402 Terms, defined.

For purposes of the Music Licensing Agency Act:

(1) Copyright owner means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018, and does not include the owner of a copyright in a motion picture or audiovisual work or in part of a motion picture or audiovisual work;

(2) Music licensing agency means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners;

(3) Performing right means the right to perform a copyrighted nondramatic musical work publicly for profit;

(4) Person means any individual, resident or nonresident of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, corporation, or music licensing agency;

(5) Proprietor means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility, or other similar place of business or professional office located in this state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast, or otherwise transmitted for the enjoyment of members of the public there assembled; and

(6) Royalty means the fees payable to a copyright owner for a performing right.

Source: Laws 2018, LB1120, § 31.
Effective date July 19, 2018.

59-1403 License; tax; Department of Revenue; rules and regulations.

There is hereby levied and there shall be collected a tax for the act or privilege of selling, licensing, or otherwise disposing in this state of performing rights in any musical composition, which has been copyrighted under the laws of the United States, in an amount equal to three percent of the gross receipts of all such sales, licenses, or other dispositions of performing rights in this state, payable to the Department of Revenue annually on or before March 15 of each year with respect to the gross receipts of the preceding calendar year. The department shall adopt and promulgate rules and regulations not in conflict with this section, as well as a form of return and any other forms necessary to carry out this section.

Source: Laws 1945, c. 139, § 3, p. 440; Laws 1947, c. 253, § 1, p. 831;
Laws 2018, LB1120, § 32.
Effective date July 19, 2018.

59-1403.01 Music licensing agency; registration; fine.

(1) Beginning January 1, 2019, a music licensing agency shall not license or attempt to license the use of or collect or attempt to collect any compensation with regard to any sale, license, or other disposition of a performing right unless the music licensing agency registers and files annually, on or before February 15, with the Department of Revenue an electronic copy of each variation of the performing-rights agreement providing for the payment of royalties made available from the music licensing agency to any proprietor within this state. The registration shall be valid for the calendar year. The department shall impose a fine for failure to renew or register in the amount of ten thousand dollars for each forty-five-day period which has passed since February 15 of the registration year if a music licensing agency fails to renew a registration or engages in business without registration.

(2) Each registered music licensing agency shall make available electronically to proprietors the most current available list of members and affiliates represented by the music licensing agency and the most current available list of the performed works that the music licensing agency licenses.

Source: Laws 2018, LB1120, § 33.
Effective date July 19, 2018.

59-1403.02 Music licensing agency; duties; contract requirements.

(1) Beginning January 1, 2019, no music licensing agency may enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless

at least seventy-two hours prior to the execution of that contract it provides to the proprietor or the proprietor's employees, in writing, the following:

(a) A schedule of the rates and terms of royalties under the contract; and

(b) Notice that the proprietor is entitled to the information filed with the Department of Revenue pursuant to section 59-1403.01.

(2) Beginning January 1, 2019, a contract for the payment of royalties executed in this state shall:

(a) Be in writing;

(b) Be signed by the parties; and

(c) Include, at least, the following information:

(i) The proprietor's name and business address;

(ii) The name and location of each place of business to which the contract applies;

(iii) The duration of the contract; and

(iv) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of the contract.

Source: Laws 2018, LB1120, § 34.

Effective date July 19, 2018.

59-1403.03 Music licensing agency; disclosures; representative or agent; prohibited acts.

(1) Beginning January 1, 2019, before seeking payment or a contract for payment of royalties for the use of copyrighted works by that proprietor, a representative or agent for a music licensing agency shall identify himself or herself to the proprietor or the proprietor's employees, disclose that he or she is acting on behalf of a music licensing agency, and disclose the purpose for being on the premises.

(2) A representative or agent of a music licensing agency shall not:

(a) Use obscene, abusive, or profane language when communicating with a proprietor or his or her employees;

(b) Communicate by telephone or in person with a proprietor other than at the proprietor's place of business during the hours when the proprietor's business is open to the public unless otherwise authorized by the proprietor or the proprietor's agents, employees, or representatives;

(c) Engage in any coercive conduct, act, or practice that is substantially disruptive to a proprietor's business;

(d) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or

(e) Communicate with an unlicensed proprietor about licensing performances of musical works at the proprietor's establishment after receiving notification in writing from an attorney representing the proprietor that all further communications related to the licensing of the proprietor's establishment by the music licensing agency should be addressed to the attorney. However, the music licensing agency may resume communicating directly with the proprietor if the attorney fails to respond to communications from the music licensing agency

within sixty days or the attorney becomes nonresponsive for a period of sixty days or more.

Source: Laws 2018, LB1120, § 35.
Effective date July 19, 2018.

59-1403.04 Department of Revenue; duties.

The Department of Revenue shall inform proprietors of their rights and responsibilities regarding the public performance of copyrighted music as part of the business licensing service.

Source: Laws 2018, LB1120, § 36.
Effective date July 19, 2018.

59-1403.05 Act, how construed.

Nothing in the Music Licensing Agency Act may be construed to prohibit a music licensing agency from conducting an investigation to determine the existence of music use by a proprietor's business or informing a proprietor of the proprietor's obligations under the copyright laws of the United States pursuant to 17 U.S.C. 101 et seq., as such sections existed on January 1, 2018.

Source: Laws 2018, LB1120, § 37.
Effective date July 19, 2018.

59-1404 Copyright owner; assigns; licensees; benefits.

Upon compliance with the Music Licensing Agency Act, the copyright owner, and his or her assigns and licensees, of a nondramatic musical work copyrighted under the laws of the United States shall be entitled to all the benefits thereof.

Source: Laws 1945, c. 139, § 4, p. 440; Laws 2018, LB1120, § 38.
Effective date July 19, 2018.

59-1405 Discrimination in price; price changes; exceptions.

All music licensing agencies who sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in or to any copyrighted musical composition shall refrain from discriminating in price or terms between licensees similarly situated, except that differentials based upon applicable business factors which justify different prices or terms shall not be considered discriminations within the meaning of this section. Nothing contained in this section shall prevent price changes from time to time by reason of changing conditions affecting the market for or marketability of performing rights.

Source: Laws 1945, c. 139, § 5, p. 440; Laws 2018, LB1120, § 39.
Effective date July 19, 2018.

59-1406 Violations; penalty.

Any person violating the Music Licensing Agency Act shall be fined an amount not less than five hundred dollars and not more than two thousand

dollars. Multiple violations on a single day may be considered separate violations.

Source: Laws 1945, c. 139, § 6, p. 441; Laws 2018, LB1120, § 40.
Effective date July 19, 2018.

ARTICLE 15 CIGARETTE SALES

(b) GREY MARKET SALES

Section

59-1520. Prohibited acts.

59-1523. Disciplinary actions; contraband.

(b) GREY MARKET SALES

59-1520 Prohibited acts.

It is unlawful for any person to:

(1) Sell or distribute in this state, acquire, hold, own, possess, or transport for sale or distribution in this state, or import or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and regulations, including, but not limited to:

(a) The filing of ingredients lists pursuant to the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1335a, as such section existed on January 1, 2011;

(b) The permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333, as such section existed on January 1, 2011;

(c) The rotation of label statements pursuant to the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333(c), as such section existed on January 1, 2011;

(d) The restrictions on the importation, transfer, and sale of previously exported tobacco products pursuant to 19 U.S.C. 1681 et seq. and Chapter 52 of the Internal Revenue Code, 26 U.S.C. 5701 et seq., as such sections existed on January 1, 2011; and

(e) The federal trademark and copyright laws;

(2) Alter a package of cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(a) Any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including, but not limited to, labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise package warning statement in the precise format specified in the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1333, as such section existed on January 1, 2011;

(3) Affix any stamps or meter impression required pursuant to sections 77-2601 to 77-2615 to the package of any cigarettes that does not comply with the requirements of subdivision (1) of this section or that is altered in violation of subdivision (2) of this section; and

(4) Import or reimport into the United States for sale or distribution under any trade name, trade dress, or trademark that is the same as, or is confusingly similar to, any trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States.

Source: Laws 2001, LB 358, § 2; Laws 2011, LB590, § 1.

59-1523 Disciplinary actions; contraband.

(1) The cigarette tax division of the Tax Commissioner may, after notice and hearing, revoke or suspend for any violation of section 59-1520 the license or licenses of any person licensed under sections 28-1418 to 28-1429.03 or sections 77-2601 to 77-2622.

(2) Cigarettes that are acquired, held, owned, possessed, transported, sold, or distributed in or imported into this state in violation of section 59-1520 are declared to be contraband goods and are subject to seizure and forfeiture. Any cigarettes so seized and forfeited shall be destroyed. Such cigarettes shall be declared to be contraband goods whether the violation of section 59-1520 is knowing or otherwise.

Source: Laws 2001, LB 358, § 5; Laws 2011, LB590, § 2; Laws 2014, LB863, § 27.

ARTICLE 16

CONSUMER PROTECTION ACT

Section

59-1608.04. State Settlement Cash Fund; created; use; investment; transfer.

59-1611. Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty.

59-1614. Civil penalties; Attorney General; duties.

59-1608.04 State Settlement Cash Fund; created; use; investment; transfer.

(1) The State Settlement Cash Fund is created. The fund shall be maintained by the Department of Justice and administered by the Attorney General. Except as otherwise provided by law, the fund shall consist of all recoveries received pursuant to the Consumer Protection Act, including any money, funds, securities, or other things of value in the nature of civil damages or other payment, except criminal penalties, whether such recovery is by way of verdict, judgment, compromise, or settlement in or out of court, or other final disposition of any case or controversy, or any other payments received on behalf of the state by the Department of Justice and administered by the Attorney General for the benefit of the state or the general welfare of its citizens, but excluding all funds held in a trust capacity where specific benefits accrue to specific individuals, organizations, or governments. The fund may be expended for any allowable legal purposes as determined by the Attorney General. Transfers from the State Settlement Cash Fund may be made at the direction of the Legislature to the Nebraska Capital Construction Fund, the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund, and the General Fund. To provide necessary financial accountability and management oversight, revenue from individual settlement agreements or other separate sources credited to the State Settlement Cash Fund may be tracked and accounted for within the state accounting system through the use of separate and distinct funds, sub-

funds, or any other available accounting mechanism specifically approved by the Accounting Administrator for use by the Department of Justice. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall transfer two million five hundred thousand dollars from the State Settlement Cash Fund to the Nebraska Capital Construction Fund on July 1, 2013, or as soon thereafter as administratively possible.

(3) The State Treasurer shall transfer eight hundred seventy-six thousand nine hundred ninety-eight dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(4) The State Treasurer shall transfer one million seven hundred fifty-six thousand six hundred thirty-nine dollars from the State Settlement Cash Fund to the General Fund on or before June 30, 2019, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(5) The State Treasurer shall transfer one hundred twenty-five thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before April 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

(6) The State Treasurer shall transfer one hundred fifty thousand dollars from the State Settlement Cash Fund to the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund on or before July 9, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2006, LB 1061, § 4; Laws 2009, First Spec. Sess., LB3, § 34; Laws 2010, LB190, § 7; Laws 2011, LB549, § 8; Laws 2013, LB199, § 26; Laws 2017, LB331, § 26; Laws 2018, LB945, § 14.

Effective date April 5, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

59-1611 Demand to produce documentary materials for inspection; contents; service; unauthorized disclosure; return; modification; vacation; use; penalty.

(1) Whenever the Attorney General believes that any person may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated, which he or she believes to be relevant to the subject matter of an investigation of a possible violation of sections 59-1602 to 59-1606, the Attorney General may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person a civil investigative demand requiring such person to produce such documentary material and

permit inspection and copying thereof. This section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) Describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material shall be produced; and

(d) Identify the members of the Attorney General's staff to whom such documentary material shall be made available for inspection and copying.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer of the person to be served;

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if such person has no place of business in this state, to his or her principal office or place of business.

(5) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the Attorney General.

(6) No documentary material produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a district court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the Attorney General, without the consent of the person who produced such material, except that:

(a) Under such reasonable terms and conditions as the Attorney General shall prescribe, the copies of such documentary material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person;

(b) The Attorney General may provide copies of such documentary material to an official of this or any other state, or an official of the federal government, who is charged with the enforcement of federal or state antitrust or consumer protection laws, if such official agrees in writing to not disclose such documentary material to any person other than the official's authorized employees,

except as such disclosure is permitted under subdivision (c) of this subsection; and

(c) The Attorney General or any assistant attorney general or an official authorized to receive copies of documentary material under subdivision (b) of this subsection may use such copies of documentary material as he or she determines necessary in the enforcement of the Consumer Protection Act or any state or federal consumer protection laws that any state or federal official has authority to enforce, including presentation before any court, except that any such material which contains trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the district court for Lancaster County, or in such other county where the parties reside. A petition by the person on whom the demand is served, stating good cause, to require the Attorney General or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the district court for Lancaster County or in the county where the parties reside.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material duly served upon him or her under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his or her principal place of business or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the district court of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order as may be required to carry into effect the provisions of this section. Disobedience of any order entered under this section by any court shall be punished as a contempt thereof.

Source: Laws 1974, LB 1028, § 18; Laws 2002, LB 1278, § 29; Laws 2016, LB835, § 22.

59-1614 Civil penalties; Attorney General; duties.

Any person who violates section 59-1603 or 59-1604 or the terms of any injunction issued as provided in the Consumer Protection Act shall forfeit and pay a civil penalty of not more than five hundred thousand dollars.

Any person who violates section 59-1602 shall pay a civil penalty of not more than two thousand dollars for each violation, except that such penalty shall not apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium who publishes, prints, or distributes advertising in good faith without knowledge of its false, deceptive, or misleading character

and no such good faith publication, printing, or distribution shall be considered a violation of section 59-1602.

For the purpose of this section, the district court which issues any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the state may petition for the recovery of civil penalties.

With respect to violations of sections 59-1603 and 59-1604, the Attorney General, acting in the name of the state, may seek recovery of such penalties in a civil action.

Source: Laws 1974, LB 1028, § 21; Laws 1980, LB 186, § 1; Laws 2002, LB 1278, § 30; Laws 2016, LB835, § 23.

ARTICLE 17

SELLER-ASSISTED MARKETING PLAN

Section

59-1722. Transaction; seller complied with Federal Trade Commission trade regulation rule; exempt; exception; conditions; fee.

59-1724. Marketing plan; seller; disclosure document; contents; list of sellers; file; update; fees.

59-1722 Transaction; seller complied with Federal Trade Commission trade regulation rule; exempt; exception; conditions; fee.

(1) Any transaction in which the seller has complied with the Federal Trade Commission trade regulation rule titled Disclosure Requirements and Prohibitions Concerning Franchising, 16 C.F.R. 436, shall be exempt from the Seller-Assisted Marketing Plan Act, except that such transactions shall be subject to subdivision (1)(d) of section 59-1757, those provisions regulating or prescribing the use of the phrase buy-back or secured investment or similar phrases as set forth in sections 59-1726 to 59-1728 and 59-1751, and all sections which provide for their enforcement. The exemption shall only apply if:

(a) The seller uses a disclosure document prepared in accordance with either the Federal Trade Commission trade regulation rule titled Disclosure Requirements and Prohibitions Concerning Franchising, 16 C.F.R. 436, or the then current guidelines for the preparation of the Uniform Franchise Offering Circular adopted by the North American Securities Administrators Association;

(b) Before placing any advertisement in a Nebraska-based publication, offering for sale to any prospective purchaser in Nebraska, or making any representations in connection with such offer or sale to any prospective purchaser in Nebraska, the seller files a notice with the Department of Banking and Finance which contains (i) the name, address, and telephone number of the seller and the name under which the seller intends to do business and (ii) a brief description of the plan offered by the seller; and

(c) The seller pays a filing fee of one hundred dollars.

(2) The department may request a copy of the disclosure document upon receipt of a written complaint or inquiry regarding the seller or upon a reasonable belief that a violation of the Seller-Assisted Marketing Plan Act has occurred or may occur. The seller shall provide such copy within ten business days of receipt of the request.

(3) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

(4) The Director of Banking and Finance may by order deny or revoke an exemption specified in this section with respect to a particular offering of one or more business opportunities if the director finds that such an order is in the public interest or is necessary for the protection of purchasers. An order shall not be entered without appropriate prior notice to all interested parties, an opportunity for hearing, and written findings of fact and conclusions of law. If the public interest or the protection of purchasers so requires, the director may by order summarily deny or revoke an exemption specified in this section pending final determination of any proceedings under this section. An order under this section shall not operate retroactively.

Source: Laws 1979, LB 180, § 22; Laws 1993, LB 218, § 9; Laws 2001, LB 53, § 108; Laws 2013, LB214, § 11.

59-1724 Marketing plan; seller; disclosure document; contents; list of sellers; file; update; fees.

(1)(a) Before placing any advertisement, making any other solicitation, making any sale, or making any representations to any prospective purchaser in Nebraska, the seller shall file with the Department of Banking and Finance a copy of a disclosure document prepared pursuant to sections 59-1733 to 59-1740 and pay a filing fee of one hundred dollars.

(b) The seller shall file an amended document with the department whenever a material change in the information occurs and shall pay a fee of fifty dollars for filing each such document.

(c) If the seller continues to solicit seller-assisted marketing plans in Nebraska, he or she shall annually file an updated disclosure document and pay a renewal fee of fifty dollars on or before the anniversary date of the initial filing for the particular seller-assisted marketing plan. In addition to the updated disclosure document, if a seller requires a purchaser to enter into a noncompete agreement in a side agreement or ancillary agreement, the seller shall include a disclosure of the existence of such side agreement or ancillary agreement in the updated disclosure document.

(d) In addition to the disclosure document, the seller shall file a list of the names and resident addresses of those individuals who sell the seller-assisted marketing plan on behalf of the seller. The list of sales representatives shall be updated through a new filing every six months. No fee shall be required to be paid for any filing which includes only an updated list of sales representatives.

(2) All funds collected by the department under this section shall be remitted to the State Treasurer for credit to the Securities Act Cash Fund.

Source: Laws 1979, LB 180, § 24; Laws 1993, LB 218, § 10; Laws 2016, LB942, § 1.

MOTOR VEHICLES

CHAPTER 60

MOTOR VEHICLES

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MOTOR VEHICLES

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ARTICLE 1

MOTOR VEHICLE CERTIFICATE OF TITLE ACT

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60-101 Act, how cited.

Sections 60-101 to 60-197 shall be known and may be cited as the Motor Vehicle Certificate of Title Act.

Source: Laws 2005, LB 276, § 1; Laws 2006, LB 663, § 1; Laws 2006, LB 1061, § 6; Laws 2007, LB286, § 1; Laws 2009, LB49, § 5; Laws

2009, LB202, § 10; Laws 2010, LB650, § 3; Laws 2011, LB289, § 6; Laws 2012, LB1155, § 2; Laws 2015, LB231, § 2; Laws 2017, LB263, § 7; Laws 2018, LB909, § 7.
Effective date April 12, 2018.

60-102 Definitions, where found.

For purposes of the Motor Vehicle Certificate of Title Act, unless the context otherwise requires, the definitions found in sections 60-103 to 60-136.01 shall be used.

Source: Laws 2005, LB 276, § 2; Laws 2007, LB286, § 2; Laws 2010, LB650, § 4; Laws 2012, LB1155, § 3; Laws 2015, LB231, § 3; Laws 2017, LB263, § 8; Laws 2018, LB909, § 8.
Effective date April 12, 2018.

60-103 All-terrain vehicle, defined.

All-terrain vehicle means any motorized off-highway device which (1) is fifty inches or less in width, (2) has a dry weight of twelve hundred pounds or less, (3) travels on three or more nonhighway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

Source: Laws 2005, LB 276, § 3; Laws 2014, LB814, § 3.

60-104 Assembled vehicle, defined.

Assembled vehicle means a vehicle which was manufactured or assembled less than thirty years prior to application for a certificate of title and which is materially altered from its construction by the removal, addition, or substitution of new or used major component parts unless such major component parts were replaced under warranty by the original manufacturer of the vehicle. Its make shall be assembled, and its model year shall be the year in which the vehicle was assembled.

Source: Laws 2005, LB 276, § 4; Laws 2018, LB909, § 9.
Effective date April 12, 2018.

60-104.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 4; Laws 2018, LB909, § 10.
Effective date April 12, 2018.

60-104.02 Auxiliary axle, defined.

Auxiliary axle means an auxiliary undercarriage assembly with a fifth wheel and tow bar used to convert a semitrailer to a full trailer, commonly known as converter gears or converter dollies.

Source: Laws 2018, LB909, § 11.
Effective date April 12, 2018.

60-105 Body, defined.

Body means that portion of a vehicle which determines its shape and appearance and is attached to the frame. Body does not include the box or bed of a truck.

Source: Laws 2005, LB 276, § 5; Laws 2012, LB751, § 6.

60-107.01 Car toter or tow dolly, defined.

Car toter or tow dolly means a two-wheeled conveyance designed or adapted to support the weight of one axle of a motor vehicle while being towed in combination behind another motor vehicle.

Source: Laws 2018, LB909, § 12.
Effective date April 12, 2018.

60-111 Repealed. Laws 2012, LB 801, § 102.

60-116.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes.

Source: Laws 2012, LB1155, § 4.

60-119 Kit vehicle, defined.

Kit vehicle means a vehicle which was assembled by a person other than a generally recognized manufacturer of vehicles by the use of a reproduction resembling a specific manufacturer's make and model that is at least thirty years old purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin. Kit vehicle does not include glider kits.

Source: Laws 2005, LB 276, § 19; Laws 2018, LB909, § 13.
Effective date April 12, 2018.

60-119.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, (c) which is equipped with a

windshield and an occupant protection system, and (d) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 5; Laws 2011, LB289, § 7; Laws 2016, LB929, § 1; Laws 2017, LB263, § 12; Laws 2018, LB909, § 14. Effective date April 12, 2018.

60-119.02 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 9.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-121.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 5; Laws 2012, LB898, § 1.

60-122 Moped, defined.

Moped means a device 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 device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 2005, LB 276, § 22; Laws 2015, LB95, § 3.

60-123 Motor vehicle, defined.

Motor vehicle means any vehicle propelled by any power other than muscular power. Motor vehicle does not include (1) mopeds, (2) farm tractors, (3) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (4) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (5) vehicles which run only on rails or tracks, (6) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles, utility-type vehicles, snowmobiles registered or exempt from registration under sections 60-3,207 to 60-3,219, and minibikes, (7) road and general-purpose construction and main-

tenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, (8) self-propelled chairs used by persons who are disabled, (9) electric personal assistive mobility devices, and (10) bicycles as defined in section 60-611.

Source: Laws 2005, LB 276, § 23; Laws 2006, LB 765, § 1; Laws 2007, LB286, § 6; Laws 2010, LB650, § 6; Laws 2011, LB289, § 8; Laws 2012, LB1155, § 5; Laws 2015, LB95, § 4.

60-124 Motorcycle, defined.

Motorcycle means any motor vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground. Motorcycle includes an autocycle.

Source: Laws 2005, LB 276, § 24; Laws 2015, LB231, § 5; Laws 2018, LB909, § 15.
Effective date April 12, 2018.

60-126 Parts vehicle, defined.

Parts vehicle means a vehicle the title to which has been surrendered (1) in accordance with subdivision (1)(a) of section 60-169 or (2) to any other state by the owner of the vehicle or an insurance company to render the vehicle fit for sale for scrap and parts only.

Source: Laws 2005, LB 276, § 26; Laws 2011, LB241, § 1.

60-128.01 Reconstructed, defined.

Reconstructed means the designation of a vehicle which was permanently altered from its original design construction by removing, adding, or substituting major component parts.

Source: Laws 2018, LB909, § 16.
Effective date April 12, 2018.

60-128.02 Replica, defined.

Replica means the designation of a vehicle which resembles a specific manufacturer's make and model that is at least thirty years old and which has been assembled as a kit vehicle.

Source: Laws 2018, LB909, § 17.
Effective date April 12, 2018.

60-129 Semitrailer, defined.

Semitrailer means any trailer so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle. Semitrailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 276, § 29; Laws 2018, LB909, § 18.
Effective date April 12, 2018.

60-133 Trailer, defined.

Trailer means any device without motive power designed for carrying persons or property and being towed by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. Trailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 276, § 33; Laws 2018, LB909, § 19.
Effective date April 12, 2018.

60-135.01 Utility-type vehicle, defined.

(1) Utility-type vehicle means any motorized off-highway device which (a) is seventy-four inches in width or less, (b) is not more than one hundred eighty inches, including the bumper, in length, (c) has a dry weight of two thousand pounds or less, and (d) travels on four or more nonhighway tires.

(2) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

Source: Laws 2010, LB650, § 7; Laws 2012, LB1155, § 6; Laws 2013, LB223, § 1; Laws 2014, LB814, § 4.

60-137 Act; applicability.

(1) The Motor Vehicle Certificate of Title Act applies to all vehicles as defined in the act, except:

(a) Farm trailers;

(b) Well-boring apparatus, backhoes, bulldozers, and front-end loaders; and

(c) Trucks and buses from other jurisdictions required to pay registration fees under the Motor Vehicle Registration Act, except a vehicle registered or eligible to be registered as part of a fleet of apportionable vehicles under section 60-3,198.

(2)(a) All new all-terrain vehicles and minibikes sold on or after January 1, 2004, shall be required to have a certificate of title. An owner of an all-terrain vehicle or minibike sold prior to such date may apply for a certificate of title for such all-terrain vehicle or minibike as provided in rules and regulations of the department.

(b) All new low-speed vehicles sold on or after January 1, 2012, shall be required to have a certificate of title. An owner of a low-speed vehicle sold prior to such date may apply for a certificate of title for such low-speed vehicle as provided in rules and regulations of the department.

(3) An owner of a utility trailer may apply for a certificate of title upon compliance with the Motor Vehicle Certificate of Title Act.

(4)(a) Every owner of a manufactured home or mobile home shall obtain a certificate of title for the manufactured home or mobile home prior to affixing it to real estate.

(b) If a manufactured home or mobile home has been affixed to real estate and a certificate of title was not issued before it was so affixed, the owner of such manufactured home or mobile home shall apply for and be issued a certificate of title at any time for surrender and cancellation as provided in section 60-169.

(5) All new utility-type vehicles sold on or after January 1, 2011, shall be required to have a certificate of title. An owner of a utility-type vehicle sold

prior to such date may apply for a certificate of title for such utility-type vehicle as provided in rules and regulations of the department.

Source: Laws 2005, LB 276, § 37; Laws 2006, LB 765, § 2; Laws 2007, LB286, § 9; Laws 2008, LB953, § 2; Laws 2010, LB650, § 9; Laws 2011, LB289, § 9.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-139 Certificate of title; vehicle identification number; required; when.

Except as provided in section 60-137, 60-138, 60-142, or 60-142.01, no person shall sell or otherwise dispose of a vehicle without (1) delivering to the purchaser or transferee of such vehicle a certificate of title with such assignments thereon as are necessary to show title in the purchaser and (2) having affixed to the vehicle its vehicle identification number if it is not already affixed. No person shall bring into this state a vehicle for which a certificate of title is required in Nebraska, except for temporary use, without complying with the Motor Vehicle Certificate of Title Act.

No purchaser or transferee shall receive a certificate of title which does not contain such assignments as are necessary to show title in the purchaser or transferee. Possession of a certificate of title which does not comply with this requirement shall be prima facie evidence of a violation of this section, and such purchaser or transferee, upon conviction, shall be subject to the penalty provided by section 60-180.

Source: Laws 2005, LB 276, § 39; Laws 2006, LB 663, § 3; Laws 2011, LB241, § 2.

60-140 Acquisition of vehicle; proof of ownership; effect.

(1) Except as provided in section 60-164, no person acquiring a vehicle from the owner thereof, whether such owner is a manufacturer, importer, dealer, or entity or person, shall acquire any right, title, claim, or interest in or to such vehicle until the acquiring person has had delivered to him or her physical possession of such vehicle and (a) a certificate of title or a duly executed manufacturer's or importer's certificate with such assignments as are necessary to show title in the purchaser, (b) a written instrument as required by section 60-1417, (c) an affidavit and notarized bill of sale as provided in section 60-142.01, or (d) a bill of sale for a parts vehicle as required by section 60-142.

(2) No waiver or estoppel shall operate in favor of such person against a person having physical possession of such vehicle and such documentation. No court shall recognize the right, title, claim, or interest of any person in or to a vehicle, for which a certificate of title has been issued in Nebraska, sold, disposed of, mortgaged, or encumbered, unless there is compliance with this section. Beginning on the implementation date of the electronic title and lien system designated by the director pursuant to section 60-164, an electronic certificate of title record shall be evidence of an owner's right, title, claim, or interest in a vehicle.

Source: Laws 2005, LB 276, § 40; Laws 2006, LB 663, § 4; Laws 2009, LB202, § 11; Laws 2011, LB241, § 3.

60-142 Historical vehicle or parts vehicle; sale or transfer; parts vehicle; bill of sale; prohibited act; violation; penalty.

(1) The sale or trade and subsequent legal transfer of ownership of a historical vehicle or parts vehicle shall not be contingent upon any condition that would require the historical vehicle or parts vehicle to be in operating condition at the time of the sale or transfer of ownership.

(2) No owner of a parts vehicle shall sell or otherwise dispose of the parts vehicle without delivering to the purchaser a bill of sale for the parts vehicle prescribed by the department. The bill of sale may include, but shall not be limited to, the vehicle identification number, the year, make, and model of the vehicle, the name and residential and mailing addresses of the owner and purchaser, the acquisition date, and the odometer statement provided for in section 60-192. A person who uses a bill of sale for a parts vehicle to transfer ownership of any vehicle that does not meet the definition of a parts vehicle shall be guilty of a Class III misdemeanor.

Source: Laws 2005, LB 276, § 42; Laws 2006, LB 663, § 5; Laws 2011, LB241, § 4.

60-142.03 Recognized car club; qualified car club representative; department; powers and duties.

(1) For purposes of this section, car club means an organization that has members with knowledge of and expertise pertaining to authentic vehicles and that has members with knowledge of and expertise pertaining to the restoration and preservation of specific makes and models of vehicles using replacement parts that are essentially the same in design and material to that originally supplied by the manufacturer for a specific year, make, and model of vehicle.

(2) To become a recognized car club, a car club shall apply to the department. For a car club to become recognized, it must be a nonprofit organization with established bylaws and at least twenty members. The applicant shall provide a copy of the bylaws and a membership list to the department. The department shall determine if a car club qualifies as a recognized car club. The determination of the department shall be final and nonappealable.

(3) A member of a recognized car club may apply to the department to become a qualified car club representative. Each qualified car club representative shall be designated by the president or director of the local chapter of the recognized car club of which he or she is a member. The department shall identify and maintain a list of qualified car club representatives. A qualified car club representative may apply to be placed on the list of qualified car club representatives by providing the department with his or her name, address, and telephone number, the name, address, and telephone number of the recognized car club he or she represents, a copy of the designation of the representative by the president or director of the local chapter of the recognized car club, and such other information as may be required by the department. The department may place a qualified car club representative on the list upon receipt of a completed application and may provide each representative with information for inspection of vehicles and parts. The determination of the department regarding designation of an individual as a qualified car club representative and placement on the list of qualified car club representatives shall be final and nonappealable. The department shall distribute the list to county treasurers.

(4) When a qualified car club representative inspects vehicles and replacement parts, he or she shall determine whether all major component parts used in the assembly of a vehicle are original or essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle, including the appropriate engine, body material, body shape, and other requirements as prescribed by the department. After such inspection, the representative shall provide the owner with a statement in the form prescribed by the department which includes the findings of the inspection. No qualified car club representative shall charge any fee for the inspection or the statement. No qualified car club representative shall provide a statement for any vehicle owned by such representative or any member of his or her immediate family.

(5) The director may summarily remove a person from the list of qualified car club representatives upon written notice. Such person may reapply for inclusion on the list upon presentation of suitable evidence satisfying the director that the cause for removal from the list has been corrected, eliminated, no longer exists, or will not affect or interfere with the person's judgment or qualifications for inspection of vehicles to determine whether or not any replacement parts are essentially the same in design and material to that originally supplied by the original manufacturer for the specific year, make, and model of vehicle.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2006, LB 663, § 8; Laws 2012, LB801, § 28.

60-142.04 Reconstructed vehicle; application for certificate of title; procedure.

The owner of a vehicle which was manufactured or assembled more than thirty years prior to application for a certificate of title with one or more major component parts replaced by replacement parts, other than replacement parts that are essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle, may apply for a certificate of title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts replaced, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year the vehicle resembles, the make the vehicle resembles, and the model the vehicle resembles and shall be branded as reconstructed.

Source: Laws 2006, LB 663, § 9; Laws 2018, LB909, § 20.
Effective date April 12, 2018.

60-142.05 Replica vehicle; application for certificate of title; procedure.

The owner of a kit vehicle may apply for a certificate of title by presenting a manufacturer's statement of origin for the kit, a notarized bill of sale for all major component parts not in the kit, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year the vehicle

resembles, the make the vehicle resembles, and the model the vehicle resembles and shall be branded as replica.

Source: Laws 2006, LB 663, § 10; Laws 2018, LB909, § 21.
Effective date April 12, 2018.

60-142.06 Certificate of title as assembled vehicle; application for certificate of title indicating year, make, and model; procedure.

An owner of a vehicle which has been issued a certificate of title as an assembled vehicle prior to April 12, 2018, in this state may have the vehicle inspected by a qualified car club representative who shall determine whether or not any modifications or replacement parts are essentially the same in design and material to that originally supplied by the manufacturer for the specific year, make, and model of vehicle and obtain a statement as provided in section 60-142.03. The owner may apply for a certificate of title indicating the year, make, and model of the vehicle by presenting the statement and an application for certificate of title to the department. After review of the application, the department shall issue the certificate of title to the owner if the vehicle meets the specifications provided in section 60-142.02.

Source: Laws 2006, LB 663, § 11; Laws 2018, LB909, § 22.
Effective date April 12, 2018.

60-142.08 Low-speed vehicle; application for certificate of title indicating year and make; procedure.

If a low-speed vehicle does not have a manufacturer's vehicle identification number, the owner of the low-speed vehicle may apply for a certificate of title by presenting a manufacturer's statement of origin for the low-speed vehicle, a statement that an inspection has been conducted on the low-speed vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year of the low-speed vehicle as the year application for title was made and the make of the low-speed vehicle.

Source: Laws 2011, LB289, § 10.

60-142.09 Vehicle manufactured more than thirty years prior to application for certificate of title; department; duties.

If the owner does not have a certificate of title for a vehicle manufactured more than thirty years prior to application for a certificate of title which has not had any major component part replaced, the department shall search its records and any records readily accessible to the department for evidence of issuance of a certificate of title for such vehicle at the request of the owner. If no certificate of title has been issued, the owner may apply for a certificate of title indicating that the year, make, and model of the vehicle is that originally designated by the manufacturer by presenting a notarized bill of sale, an affidavit in support of the application for title, and a statement that an inspection has been conducted on the vehicle.

Source: Laws 2017, LB263, § 10.

60-142.10 Vehicle manufactured more than thirty years prior to application for certificate of title; fee.

For each certificate of title issued by the department under section 60-142.09, the fee shall be twenty-five dollars, which shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2017, LB263, § 11.

60-142.11 Assembled vehicle; application for certificate of title; procedure.

The owner of an assembled vehicle may apply for a certificate of title by presenting a certificate of title for one major component part, a notarized bill of sale for all other major component parts replaced, a statement that an inspection has been conducted on the vehicle, and a vehicle identification number as described in section 60-148. The certificate of title shall indicate the year of the vehicle as the year application for title was made and the make of the vehicle as assembled.

Source: Laws 2018, LB909, § 23.
Effective date April 12, 2018.

60-144 Certificate of title; issuance; filing; application; contents; form.

(1)(a)(i) Except as provided in subdivisions (b), (c), and (d) of this subsection, the county treasurer shall be responsible for issuing and filing certificates of title for vehicles, and each county shall issue and file such certificates of title using the Vehicle Title and Registration System which shall be provided and maintained by the department. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(ii) This subdivision applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2020. In addition to the information required under subdivision (1)(a)(i) of this section, the application for a certificate of title shall contain (A) the full legal name as defined in section 60-468.01 of each owner and (B)(I) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (II) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

(b) The department shall issue and file certificates of title for Nebraska-based fleet vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(c) The department shall issue and file certificates of title for state-owned vehicles. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(d) The department shall issue certificates of title pursuant to section 60-142.06. Application for a certificate of title shall be made upon a form prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(e) The department shall issue certificates of title pursuant to section 60-142.09. Application for a certificate of title shall be made upon a form

prescribed by the department. All applications shall be accompanied by the appropriate fee or fees.

(2) If the owner of an all-terrain vehicle, a utility-type vehicle, or a minibike resides in Nebraska, the application shall be filed with the county treasurer of the county in which the owner resides.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection until January 1, 2019, if a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, has situs in Nebraska, the application shall be filed with the county treasurer of the county in which the vehicle has situs. Beginning January 1, 2019, if a vehicle has situs in Nebraska, the application for a certificate of title may be filed with the county treasurer of any county.

(b) If a motor vehicle dealer licensed under the Motor Vehicle Industry Regulation Act applies for a certificate of title for a vehicle, the application may be filed with the county treasurer of any county.

(c) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may apply for a certificate of title for a vehicle to the county treasurer of any county or the department in a manner provided by the electronic dealer services system.

(4) If the owner of a vehicle is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(5) The application shall be filed within thirty days after the delivery of the vehicle.

(6) All applicants registering a vehicle pursuant to section 60-3,198 shall file the application for a certificate of title with the Division of Motor Carrier Services of the department. The division shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are one or more liens on the vehicle, the certificate of title shall be handled as provided in section 60-164. All certificates of title issued by the division shall be issued in the manner prescribed for the county treasurer in section 60-152.

Source: Laws 2005, LB 276, § 44; Laws 2006, LB 663, § 13; Laws 2006, LB 765, § 3; Laws 2009, LB202, § 12; Laws 2010, LB650, § 11; Laws 2010, LB816, § 4; Laws 2011, LB212, § 2; Laws 2012, LB801, § 29; Laws 2015, LB642, § 3; Laws 2017, LB263, § 13.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-146 Application; identification inspection required; exceptions; form; procedure; additional inspection authorized.

(1) An application for a certificate of title for a vehicle shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage branded certificate of title or a nontransferable certificate of title, (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 vehicle, or a nontransferable certificate of title, (c) the application contains a statement that the vehicle is to be registered under section 60-3,198, (d) the vehicle is a cabin trailer, (e) the title sought is the first title for the vehicle sold directly by the manufacturer of the vehicle to a dealer franchised by the manufacturer, or (f) the vehicle was sold at an auction authorized by the

manufacturer and purchased by a dealer franchised by the manufacturer of the vehicle.

(2) The department shall prescribe a form to be executed by a dealer and submitted with an application for a certificate of title for vehicles exempt from inspection pursuant to subdivision (1)(e) or (f) of this section. The form shall clearly identify the vehicle and state under penalty of law that the vehicle is exempt from inspection.

(3) The statement that an identification inspection has been conducted shall be furnished by the county sheriff of any county or by any other holder of a certificate of training issued pursuant to section 60-183, shall be in a format as determined by the department, and shall expire ninety days after the date of the inspection. The county treasurer shall accept a certificate of inspection, approved by the superintendent, from an officer of a state police agency of another state unless an inspection is required under section 60-174.

(4) The identification inspection shall include examination and notation of the then current odometer reading, if any, 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 treasurer shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, if there is reason to believe further inspection is necessary, or if the inspection is for a Nebraska assigned number, 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. In the case of an assembled vehicle, a vehicle designated as reconstructed, or a vehicle designated as replica, the identification 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. No identification inspection shall be conducted unless all major component parts are properly attached to the vehicle in the correct location.

(5) 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.

(6) The county treasurer or the department may also request an identification inspection of a vehicle to determine if it meets the definition of motor vehicle as defined in section 60-123.

Source: Laws 2005, LB 276, § 46; Laws 2006, LB 765, § 4; Laws 2007, LB286, § 11; Laws 2012, LB801, § 30; Laws 2018, LB909, § 24. Effective date April 12, 2018.

60-147 Mobile home or cabin trailer; application; contents; mobile home transfer statement.

(1) An application for a certificate of title for a mobile home or cabin trailer shall be accompanied by a certificate that states that sales or use tax has been

paid on the purchase of the mobile home or cabin trailer or that the transfer of title was exempt from sales and use taxes. The county treasurer shall issue a certificate of title for a mobile home or cabin trailer but shall not deliver the certificate of title unless the certificate required under this subsection accompanies the application for certificate of title for the mobile home or cabin trailer, except that the failure of the application to be accompanied by such certificate shall not prevent the notation of a lien on the certificate of title to the mobile home or cabin trailer pursuant to section 60-164.

(2) An application for a certificate of title to a mobile home shall be accompanied by a mobile home transfer statement prescribed by the Tax Commissioner. The mobile home transfer statement shall be filed by the applicant with the county treasurer of the county of application for title. The county treasurer shall issue a certificate of title to a mobile home but shall not deliver the certificate of title unless the mobile home transfer statement accompanies the application for title, except that the failure to provide the mobile home transfer statement shall not prevent the notation of a lien on the certificate of title to the mobile home pursuant to section 60-164 and delivery to the holder of the first lien.

Source: Laws 2005, LB 276, § 47; Laws 2007, LB166, § 1; Laws 2007, LB334, § 9; Laws 2009, LB202, § 13; Laws 2012, LB801, § 31.

60-148 Assignment of distinguishing identification number; when.

(1) Whenever a person applies for a certificate of title for a vehicle, the department shall assign a distinguishing identification number to the vehicle if the vehicle identification number is destroyed, obliterated, or missing. The owner of such a vehicle to which such number is assigned shall have such number affixed to such vehicle as provided in subsection (2) of this section and sign an affidavit on a form prepared by the department that such number has been attached. Before the certificate of title for an assigned number is released to the applicant by the county treasurer, the applicant shall also provide a statement that an inspection has been conducted.

(2) The department shall develop a metallic assigned vehicle identification number plate which can be permanently secured to a vehicle by rivets or a permanent sticker or other form of marking or identifying the vehicle with the distinguishing identification number as determined by the director. All distinguishing identification numbers shall contain seventeen characters in conformance with national standards. When the manufacturer's vehicle identification number is known, it shall be used by the department as the assigned number. In the case of an assembled all-terrain vehicle, a utility-type vehicle, a minibike, an assembled vehicle, a vehicle designated as reconstructed, or a vehicle designated as replica, the department shall use a distinguishing identification number. The department shall, upon application by an owner, provide the owner with a number plate or a permanent sticker or other form of marking or identification displaying a distinguishing identification number or the manufacturer's number.

(3) Any vehicle to which a distinguishing identification number is assigned shall be titled under such distinguishing identification number when titling of the vehicle is required under the Motor Vehicle Certificate of Title Act.

Source: Laws 2005, LB 276, § 48; Laws 2006, LB 663, § 14; Laws 2010, LB650, § 12; Laws 2012, LB801, § 32; Laws 2018, LB909, § 25.
Effective date April 12, 2018.

60-149 Application; documentation required.

(1)(a) If a certificate of title has previously been issued for a vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned except as otherwise provided in the Motor Vehicle Certificate of Title Act.

(b) Except for manufactured homes or mobile homes as provided in subsection (2) of this section, if a certificate of title has not previously been issued for the vehicle in this state or if a certificate of title is unavailable, the application shall be accompanied by:

(i) A manufacturer's or importer's certificate except as otherwise provided in subdivision (viii) of this subdivision;

(ii) A duly certified copy of the manufacturer's or importer's certificate;

(iii) An affidavit by the owner affirming ownership in the case of an all-terrain vehicle, a utility-type vehicle, or a minibike;

(iv) A certificate of title from another state;

(v) 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 vehicle was brought into this state does not have a certificate of title law;

(vi) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411;

(vii) Documentation prescribed in section 60-142.01, 60-142.02, 60-142.04, 60-142.05, 60-142.09, or 60-142.11 or documentation of compliance with section 76-1607;

(viii) A manufacturer's or importer's certificate and an affidavit by the owner affirming ownership in the case of a minitruck; or

(ix) In the case of a motor vehicle, a trailer, an all-terrain vehicle, a utility-type vehicle, or a minibike, an affidavit by the holder of a motor vehicle auction dealer's license as described in subdivision (11) of section 60-1406 affirming that the certificate of title is unavailable and that the vehicle (A) is a salvage vehicle through payment of a total loss settlement, (B) is a salvage vehicle purchased by the auction dealer, or (C) has been donated to an organization operating under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01.

(c) If the application for a certificate of title in this state is accompanied by a valid certificate of title issued by another state which meets that state's requirements for transfer of ownership, then the application may be accepted by this state.

(d) If a certificate of title has not previously been issued for the vehicle in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 60-167.

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is unavailable pursuant to section 52-1801, the application shall be accompanied by proof of ownership in the form of:

(i) A duly assigned manufacturer's or importer's certificate;

(ii) A certificate of title from another state;

(iii) A court order issued by a court of record;

(iv) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections 60-2401 to 60-2411, or documentation of compliance with section 76-1607; or

(v) Assessment records for the manufactured home or mobile home from the county assessor and an affidavit by the owner affirming ownership.

(b) If the applicant cannot produce proof of ownership described in subdivision (a) of this subsection, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county treasurer to issue a certificate of title, as the case may be.

(3) For purposes of this section, certificate of title includes a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage branded certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle.

(4) The county treasurer shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(5)(a) If an affidavit is submitted under subdivision (1)(b)(ix) of this section, the holder of a motor vehicle auction dealer's license shall certify that (i) it has made at least two written attempts and has been unable to obtain the properly endorsed certificate of title to the property noted in the affidavit from the owner and (ii) thirty days have expired after the mailing of a written notice regarding the intended disposition of the property noted in the affidavit by certified mail, return receipt requested, to the last-known address of the owner and to any lien or security interest holder of record of the property noted in the affidavit.

(b) The notice under subdivision (5)(a)(ii) of this section shall contain a description of the property noted in the affidavit and a statement that title to the property noted in the affidavit shall vest in the holder of the motor vehicle auction dealer's license thirty days after the date such notice was mailed.

(c) The mailing of notice and the expiration of thirty days under subdivision (5)(a)(ii) of this section shall extinguish any lien or security interest of a lienholder or security interest holder in the property noted in the affidavit, unless the lienholder or security interest holder has claimed such property within such thirty-day period. The holder of a motor vehicle auction dealer's license shall transfer possession of the property noted in the affidavit to the lienholder or security interest holder claiming such property.

Source: Laws 2005, LB 276, § 49; Laws 2006, LB 663, § 15; Laws 2010, LB650, § 13; Laws 2010, LB933, § 1; Laws 2012, LB801, § 33; Laws 2017, LB263, § 14; Laws 2017, LB492, § 12; Laws 2018, LB275, § 1; Laws 2018, LB909, § 26.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB275, section 1, with LB909, section 26, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB275 became operative July 19, 2018.

60-150 Application; county treasurer; duties.

The county treasurer 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 available. If he or she is satisfied that the applicant is the owner of such vehicle and that the application is in the proper form, the county treasurer shall issue a certificate of title over his or her signature and sealed with the appropriate seal.

Source: Laws 2005, LB 276, § 50; Laws 2012, LB801, § 34.

60-151 Certificate of title obtained in name of purchaser; exceptions.

The certificate of title for a vehicle shall be obtained in the name of the purchaser upon application signed by the purchaser, except that (1) for titles to be held by husband and wife, applications may be accepted upon the signature of either one as a signature for himself or herself and as agent for his or her spouse and (2) for an applicant providing proof that he or she is a handicapped or disabled person as defined in section 60-331.02, applications may be accepted upon the signature of the applicant's parent, legal guardian, foster parent, or agent.

Source: Laws 2005, LB 276, § 51; Laws 2011, LB163, § 14.

60-152 Certificate of title; issuance; delivery of copies; seal; county treasurer; duties.

(1) The county treasurer shall issue a certificate of title for a vehicle in duplicate and retain one copy in his or her office. An electronic copy, in a form prescribed by the department, shall be transmitted on the day of issuance to the department. The county treasurer shall sign and affix the appropriate seal to the original certificate of title and, if there are no liens on the vehicle, deliver the certificate to the applicant. If there are one or more liens on the vehicle, the certificate of title shall be handled as provided in section 60-164 or 60-165.

(2) The county treasurers of the various counties shall adopt a circular seal with the words County Treasurer of (insert name) County thereon. Such seal shall be used by the county treasurer or the deputy or legal authorized agent of such officer, without charge to the applicant, on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a Nebraska certificate of title.

(3) The department shall prescribe a uniform method of numbering certificates of title.

(4) The county treasurer shall (a) file all certificates of title according to rules and regulations adopted and promulgated by the department, (b) maintain in the office indices for such certificates of title, (c) be authorized to destroy all previous records five years after a subsequent transfer has been made on a vehicle, and (d) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or more from the date of filing the certificate or a notation of lien, whichever occurs later.

Source: Laws 2005, LB 276, § 52; Laws 2007, LB286, § 12; Laws 2009, LB202, § 14; Laws 2012, LB801, § 35.

60-153 Certificate of title; form; contents; secure power-of-attorney form.

(1) A certificate of title shall be printed upon safety security paper to be selected by the department. 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 residential and mailing address of the owner, acquisition date, issuing county treasurer's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. A certificate of title issued on or after September 1, 2007, shall include the words "void if altered". A certificate of title that is altered shall be deemed a mutilated certificate of title. The certificate of title of an all-terrain vehicle, utility-type vehicle, or minibike shall include the words "not to be registered for road use".

(2) 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 signature of the owner 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 60-331.02.

(3) A reassignment by a 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, and the signature of the dealer or designated representative. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient.

(4) 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 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.

Source: Laws 2005, LB 276, § 53; Laws 2007, LB286, § 13; Laws 2010, LB650, § 14; Laws 2011, LB163, § 15; Laws 2012, LB801, § 36.

60-154 Fees.

(1)(a) For each original certificate of title issued by a county for a motor vehicle or trailer, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; forty-five cents to the Nebraska State Patrol Cash Fund; and ten cents to the Nebraska Motor Vehicle Industry Licensing Fund.

(b) For each original certificate of title issued by a county for an all-terrain vehicle, a utility-type vehicle, or a minibike, the fee shall be ten dollars. Three dollars and twenty-five cents shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars shall be remitted to the State Treasurer for credit to the General Fund. Seventy-five cents shall be remitted to the State Treasurer for credit as follows: Twenty cents to the Motor Vehicle Fraud Cash Fund; and fifty-five cents to the Nebraska State Patrol Cash Fund.

(2) For each original certificate of title issued by the department for a vehicle except as provided in section 60-159.01, the fee shall be ten dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Six dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 54; Laws 2006, LB 663, § 16; Laws 2006, LB 1061, § 7; Laws 2010, LB650, § 15; Laws 2012, LB751, § 7; Laws 2017, LB263, § 15.

60-155 Notation of lien; fees.

(1) For each notation of a lien by a county, the fee shall be seven dollars. Two dollars shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. One dollar shall be remitted to the State Treasurer for credit to the General Fund.

(2) For each notation of a lien by the department, the fee shall be seven dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Three dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

(3) An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect the fees prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Source: Laws 2005, LB 276, § 55; Laws 2013, LB30, § 1; Laws 2017, LB263, § 16.

60-156 Duplicate certificate of title; fees.

(1) For each duplicate certificate of title issued by a county for a vehicle, the fee shall be fourteen dollars. Ten dollars shall be retained by the county. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2) For each duplicate certificate of title issued by the department for a vehicle, the fee shall be fourteen dollars. Four dollars shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Ten dollars shall be remitted to the State Treasurer for credit to the Motor Carrier Division Cash Fund.

Source: Laws 2005, LB 276, § 56; Laws 2013, LB30, § 2.

60-161 County treasurer; remit funds; when.

The county treasurer shall remit all funds due the State Treasurer under sections 60-154 to 60-160 monthly and not later than the twentieth day of the month following collection. The county treasurer shall credit the fees not due the State Treasurer to the county general fund.

Source: Laws 2005, LB 276, § 61; Laws 2011, LB135, § 2; Laws 2012, LB801, § 37; Laws 2017, LB263, § 17.
Operative date January 1, 2019.

60-162 Department; powers; rules and regulations.

(1) The department may adopt and promulgate rules and regulations to insure uniform and orderly operation of the Motor Vehicle Certificate of Title Act, and the county treasurer of each county shall conform to such rules and regulations and proceed at the direction of the department. The department shall also provide the county treasurers with the necessary training for the proper administration of the act.

(2) The department shall receive all instruments relating to vehicles forwarded to it by the county treasurers under the act and shall maintain indices covering the state at large for the instruments so received. These indices shall be by motor number or by an identification number and alphabetically by the owner's name and shall be for the state at large and not for individual counties.

(3) The department shall provide and furnish the forms required by the act, except manufacturers' or importers' certificates.

(4) The county treasurer shall keep on hand a sufficient supply of blank forms which, except certificate of title forms, shall be furnished and distributed without charge to manufacturers, dealers, or other persons residing within the county.

Source: Laws 2005, LB 276, § 62; Laws 2012, LB801, § 38.

60-162.01 Repealed. Laws 2012, LB 801, § 102.**60-163 Department; cancellation of certificate of title; procedure.**

(1) The department shall check with its records all duplicate certificates of title received from a county treasurer. If it appears that a certificate of title has been improperly issued, the department shall cancel the same. Upon cancellation of any certificate of title, the department shall notify the county treasurer who issued the same, and such county treasurer shall thereupon enter the cancellation upon his or her records. The department shall also notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of such certificate of title, but the cancellation shall not affect the validity of any lien noted thereon. The holder of such certificate of title shall return the same to the department forthwith.

(2) If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the same and demand the return of such certificate of registration and license plates or tags, and the holder of such certificate of registration and license plates or tags shall return the same to the department forthwith.

Source: Laws 2005, LB 276, § 63; Laws 2012, LB801, § 39.

60-164 Department; implement electronic title and lien system for vehicles; liens on motor vehicles; when valid; notation on certificate; inventory, exception; priority; adjustment to rental price; how construed; notation of cancellation; failure to deliver certificate; damages; release.

(1) The department shall implement an electronic title and lien system for vehicles. The holder of a security interest, trust receipt, conditional sales contract, or similar instrument regarding a vehicle, or beginning on the implementation date determined by the director pursuant to subsection (7) of section 60-1507, a licensed dealer, may file a lien electronically as prescribed by the department. Upon receipt of an application for a certificate of title for a vehicle, any lien filed electronically shall become part of the electronic certificate of title record created by the county treasurer or department maintained on the electronic title and lien system. If an application for a certificate of title indicates that there is a lien or encumbrance on a vehicle or if a lien or notice of lien has been filed electronically, the department shall retain an electronic certificate of title record and shall note and cancel such liens electronically on the system. The department shall provide access to the electronic certificate of title records for licensed dealers and lienholders who participate in the system by a method determined by the director.

(2) Except as provided in section 60-165, 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 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 vehicle, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of the same by the holder of such instrument or, in the case of a certificate of title, if a notation of the same has been made electronically as prescribed in subsection (1) of this section or by the county treasurer or department on the face of the certificate of title or on the electronic certificate of title record, 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 vehicle is inventory, as defined in section 9-102, Uniform Commercial Code, held for sale by a person or corporation that is required to be licensed as provided in the Motor Vehicle Industry Regulation Act and is in the business of selling such vehicles, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory, shall apply to a security interest in such vehicle created by such person or corporation as debtor without the notation of lien on the certificate of title. A buyer of a vehicle at retail from a dealer required to be licensed as provided in the Motor Vehicle Industry Regulation Act shall take such vehicle free of any security interest. A purchase-money security interest, as defined in section 9-103, Uniform Commercial Code, in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date the purchase-money security interest attaches.

(3) Subject to subsections (1) and (2) of this section, all liens, security agreements, and encumbrances noted upon a certificate of title or an electronic certificate of title record and all liens noted electronically as prescribed in

subsection (1) of this section shall take priority according to the order of time in which the same are noted by the county treasurer or department. Exposure for sale of any vehicle by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on such 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 vehicle.

(4) The holder of a security agreement, trust receipt, conditional sales contract, or similar instrument, upon presentation of such instrument to the department or to any county treasurer, together with the certificate of title and the fee prescribed for notation of lien, may have a notation of such lien made on the face of such certificate of title. The owner of a vehicle may present a valid out-of-state certificate of title issued to such owner for such vehicle with a notation of lien on such certificate of title and the prescribed fee to the county treasurer or department and have the notation of lien made on the new certificate of title issued pursuant to section 60-144 without presenting a copy of the lien instrument. The county treasurer or the department shall enter the notation and the date thereof over the signature of the person making the notation and the seal of the office. If noted by a county treasurer, he or she shall on that day notify the department which shall note the lien on its records. The county treasurer or the department shall also indicate by appropriate notation and on such instrument itself the fact that such lien has been noted on the certificate of title.

(5) A transaction does not create a sale or a security interest in a vehicle, other than an all-terrain vehicle, a utility-type vehicle, or a minibike, merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the vehicle.

(6) The county treasurer or the department, 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 treasurer or the department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien and, after notation of such other lien, the county treasurer or the department 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 treasurer or the department for the purpose of showing such other lien on such certificate of title within fifteen days after the date of notice shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of such lien on the certificate of title.

(7) Upon receipt of a subsequent lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments or a notice of lien filed electronically, together with an application for notation of the subsequent lien, the fee prescribed in section 60-154, and, if a printed certificate of title exists, the presentation of the certificate of title, the county treasurer or department shall make notation of such other lien. If the certificate of title is not an electronic certificate of title record, the county treasurer or department, 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 treasurer or department, within fifteen days after the date of notice, the certificate of title to permit notation of such other lien. After such notation of lien, the lien shall become part of the electronic certificate of title record created by the county treasurer or department which is maintained on the electronic title and lien system. The holder of a certificate of title who refuses to deliver a certificate of title to the county treasurer or department for the purpose of noting such other lien on such certificate of title within fifteen days after the date when notified to do so shall be liable for damages to such other lienholder for the amount of damages such other lienholder suffered by reason of the holder of the certificate of title refusing to permit the noting of such lien on the certificate of title.

(8) When a lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the certificate of title over his, her, or its signature and deliver the certificate of title to the county treasurer or the department, which shall note the cancellation of the lien on the face of the certificate of title and on the records of such office. If delivered to a county treasurer, he or she shall on that day notify the department which shall note the cancellation on its records. The county treasurer or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of lien shall be noted on the certificate of title without charge. For an electronic certificate of title record, the lienholder shall, within fifteen days after payment is received when such lien is discharged, notify the department electronically or provide written notice of such lien release, in a manner prescribed by the department, to the county treasurer or department. The department shall note the cancellation of lien and, if no other liens exist, issue the certificate of title to the owner or as otherwise directed by the owner or lienholder. If the holder of the title cannot locate a lienholder, a lien may be discharged ten years after the date of filing by presenting proof that thirty days have passed since the mailing of a written notice by certified mail, return receipt requested, to the last-known address of the lienholder.

Source: Laws 2005, LB 276, § 64; Laws 2007, LB286, § 14; Laws 2008, LB756, § 3; Laws 2008, LB953, § 3; Laws 2009, LB202, § 15; Laws 2010, LB650, § 17; Laws 2010, LB816, § 5; Laws 2012, LB801, § 40; Laws 2017, LB263, § 18; Laws 2018, LB909, § 27. Effective date April 12, 2018.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-164.01 Electronic certificate of title; changes authorized.

Beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508, if a certificate of title is an electronic certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed in section 60-154, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

- (1) Changing the name of an owner to reflect a legal change of name;
- (2) Removing the name of an owner with the consent of all owners and lienholders; or

(3) Adding an additional owner with the consent of all owners and lienholders.

Source: Laws 2017, LB263, § 19; Laws 2018, LB909, § 28.
Effective date April 12, 2018.

60-165 Security interest in all-terrain vehicle, minibike, utility-type vehicle, or low-speed vehicle; perfection; priority; notation of lien; when.

(1) Any security interest in an all-terrain vehicle or minibike perfected pursuant to article 9, Uniform Commercial Code, before, on, or after January 1, 2004, in a utility-type vehicle so perfected before, on, or after January 1, 2011, or in a low-speed vehicle so perfected before, on, or after January 1, 2012, shall continue to be perfected until (a) the financing statement perfecting such security interest is terminated or lapses in the absence of the filing of a continuation statement pursuant to article 9, Uniform Commercial Code, or (b) an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle certificate of title is issued and a notation of lien is made as provided in section 60-164.

(2) Any lien noted on the face of an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle certificate of title or on an electronic certificate of title record pursuant to subsection (1), (3), (4), (5), or (6) of this section, on behalf of the holder of a security interest in the all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle which was previously perfected pursuant to article 9, Uniform Commercial Code, shall have priority as of the date such security interest was originally perfected.

(3) The holder of a certificate of title for an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle shall, upon request, surrender the certificate of title to a holder of a previously perfected security interest in the all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle to permit notation of a lien on the certificate of title or on an electronic certificate of title record and shall do such other acts as may be required to permit such notation.

(4) If the owner of an all-terrain vehicle or minibike subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2004, the security interest holder may obtain a certificate of title in the name of the owner of the all-terrain vehicle or minibike following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(5) If the owner of a utility-type vehicle subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2011, the security interest holder may obtain a certificate of title in the name of the owner of the utility-type vehicle following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(6) If the owner of a low-speed vehicle subject to a security interest perfected pursuant to article 9, Uniform Commercial Code, fails or refuses to obtain a certificate of title after January 1, 2012, the security interest holder may obtain a certificate of title in the name of the owner of the low-speed vehicle following the procedures of section 60-144 and may have a lien noted on the certificate of title or on an electronic certificate of title record pursuant to section 60-164.

(7) The assignment, release, or satisfaction of a security interest in an all-terrain vehicle, utility-type vehicle, minibike, or low-speed vehicle shall be governed by the laws under which it was perfected.

Source: Laws 2005, LB 276, § 65; Laws 2009, LB202, § 16; Laws 2010, LB650, § 18; Laws 2011, LB289, § 11.

60-165.01 Printed certificate of title; when issued.

(1) A lienholder, at the owner's request, may request the issuance of a printed certificate of title if the owner of the vehicle relocates to another state or country or if requested for any other purpose approved by the department. Upon proof by the owner that a lienholder has not provided the requested certificate of title within fifteen days after the owner's request, the department may issue to the owner a printed certificate of title with all liens duly noted.

(2) If a nonresident applying for a certificate of title pursuant to subsection (4) of section 60-144 indicates on the application that the applicant will immediately surrender the certificate of title to the appropriate official in the applicant's state of residence in order to have a certificate of title issued by that state and the county treasurer finds that there is a lien or encumbrance on the vehicle, the county treasurer shall issue a printed certificate of title with all liens duly noted and deliver the certificate of title to the applicant.

Source: Laws 2009, LB202, § 17; Laws 2015, LB94, § 1.

60-166 New certificate of title; issued when; proof required; processing of application.

(1)(a) This subsection applies prior to the implementation date designated by the Director of Motor Vehicles pursuant to subsection (2) of section 60-1508.

(b) In the event of (i) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in sections 30-24,125, 52-601.01 to 52-605, 60-1901 to 60-1911, and 60-2401 to 60-2411, (ii) the engine of a vehicle being replaced by another engine, (iii) a vehicle being sold to satisfy storage or repair charges or under section 76-1607, or (iv) repossession being had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto.

(2)(a) This subsection applies beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508.

(b) In the event of (i) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, and sections 60-2401 to 60-2411, (ii) the engine of a vehicle being replaced by another engine, (iii) a vehicle being sold to satisfy storage or repair charges or under section 76-1607, or (iv) repossession being had upon default in performance of the terms of a

chattel mortgage, trust receipt, conditional sales contract, or other like agreement, and upon acceptance of an electronic certificate of title record after repossession, in addition to the title requirements in this section, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto.

(3) If the prior certificate of title issued for such vehicle provided for joint ownership with right of survivorship, a new certificate of title shall be issued to a subsequent purchaser upon the assignment of the prior certificate of title by the surviving owner and presentation of satisfactory proof of death of the deceased owner.

(4) Only an affidavit by the person or agent of the person to whom possession of such vehicle has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of a court order or an instrument upon which such claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession, except that if the applicant cannot produce such proof of ownership, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize any county treasurer to issue a certificate of title, as the case may be.

(5) If from the records of the county treasurer or the department there appear to be any liens on such vehicle, such certificate of title shall comply with section 60-164 or 60-165 regarding such liens unless the application is accompanied by proper evidence of their satisfaction or extinction.

Source: Laws 2005, LB 276, § 66; Laws 2007, LB286, § 15; Laws 2009, LB202, § 18; Laws 2012, LB751, § 8; Laws 2012, LB801, § 41; Laws 2017, LB263, § 20; Laws 2017, LB492, § 13; Laws 2018, LB193, § 87; Laws 2018, LB275, § 2; Laws 2018, LB909, § 29.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB193 became operative January 1, 2019. Changes made by LB275 became operative January 1, 2019.

60-168 Certificate of title; loss or mutilation; duplicate certificate; subsequent purchaser, rights; recovery of original; duty of owner.

(1) In the event of a lost or mutilated certificate of title, the owner of the vehicle or the holder of a lien on the vehicle shall apply, upon a form prescribed by the department, to the department or to any county treasurer for a duplicate certificate of title and shall pay the fee prescribed by section 60-156. The application shall be signed and sworn to by the person making the application or a person authorized to sign under section 60-151. Thereupon the county treasurer, with the approval of the department, or the department shall issue a duplicate certificate of title to the person entitled to receive the certificate of title. If the records of the title have been destroyed pursuant to section 60-152, the county treasurer shall issue a duplicate certificate of title to the person entitled to receive the same upon such showing as the county treasurer 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 treasurer to issue a duplicate certificate of title. A duplicate certificate of title so issued shall show only those unreleased liens of record. The new purchaser shall be entitled to receive an original certificate of title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county treasurer prescribed in section 60-144.

(2) Any purchaser of a vehicle for which a certificate of title was lost or mutilated may at the time of purchase require the seller of the same to indemnify him or her and all subsequent purchasers of the 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 treasurer or the department for cancellation.

Source: Laws 2005, LB 276, § 68; Laws 2007, LB286, § 16; Laws 2012, LB751, § 9; Laws 2012, LB801, § 42.

60-168.01 Certificate of title; failure to note required brand or lien; notice to holder of title; corrected certificate of title; failure of holder to deliver certificate; effect; removal of improperly noted lien on certificate of title; procedure.

(1) The department, upon receipt of clear and convincing evidence of a failure to note a required brand or failure to note a lien on a certificate of title, shall notify the holder of such certificate of title to deliver to the county treasurer or the department, within fifteen days after the date on the notice, such certificate of title to permit the noting of such brand or lien. After notation, the county treasurer or the department shall deliver the corrected certificate of title to the holder as provided by section 60-152. If a holder fails to deliver a certificate of title to the county treasurer or to the department, within fifteen days after the date on the notice for the purpose of noting such brand or lien on the certificate of title, the department shall cancel the certificate of title. This subsection does not apply when noting a lien in accordance with subsection (6) of section 60-164.

(2) The department may remove a lien on a certificate of title when such lien was improperly noted if evidence of the improperly noted lien is submitted to the department and the department finds the evidence sufficient to support removal of the lien. The department shall send notification prior to removal of the lien to the last-known address of the lienholder. The lienholder must respond within thirty days after the date on the notice and provide sufficient evidence to support that the lien should not be removed. If the lienholder fails to respond to the notice, the lien may be removed by the department.

Source: Laws 2007, LB286, § 17; Laws 2009, LB202, § 19; Laws 2012, LB801, § 43; Laws 2018, LB909, § 30.
Effective date April 12, 2018.

60-168.02 Certificate of title in dealer's name; issuance authorized; documentation and fees required; dealer; duties.

(1) When a motor vehicle, trailer, or semitrailer is purchased by a motor vehicle dealer or trailer dealer and the original assigned certificate of title has been lost or mutilated, the dealer selling such motor vehicle or trailer may apply for an original certificate of title in the dealer's name. The following documentation and fees shall be submitted by the dealer:

- (a) An application for a certificate of title in the name of such dealer;
 - (b) A photocopy from the dealer's records of the front and back of the lost or mutilated original certificate of title assigned to a dealer;
 - (c) A notarized affidavit from the purchaser of such motor vehicle or trailer for which the original assigned certificate of title was lost or mutilated stating that the original assigned certificate of title was lost or mutilated; and
 - (d) The appropriate certificate of title fee.
- (2) The application and affidavit shall be on forms prescribed by the department. When the motor vehicle dealer or trailer dealer receives the new certificate of title in such dealer's name and assigns it to the purchaser, the dealer shall record the original sale date and provide the purchaser with a copy of the front and back of the original lost or mutilated certificate of title as evidence as to why the purchase date of the motor vehicle or trailer is prior to the issue date of the new certificate of title.

Source: Laws 2007, LB286, § 18; Laws 2008, LB756, § 4; Laws 2017, LB263, § 21.

60-169 Vehicle; certificate of title; surrender and cancellation; when required; mobile home or manufactured home affixed to real property; certificate of title; surrender and cancellation; procedure; effect; detachment; owner; duties.

(1)(a) Except as otherwise provided in subdivision (b) of this subsection, each owner of a vehicle and each person mentioned as owner in the last certificate of title, when the vehicle is dismantled, destroyed, or changed in such a manner that it loses its character as a vehicle or changed in such a manner that it is not the vehicle described in the certificate of title, shall surrender his or her certificate of title to any county treasurer or to the department. If the certificate of title is surrendered to a county treasurer, he or she shall, with the consent of any holders of any liens noted thereon, enter a cancellation upon the records and shall notify the department of such cancellation. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, a wrecker or salvage dealer shall report electronically to the department using the electronic reporting system. If the certificate is surrendered to the department, it shall, with the consent of any holder of any lien noted thereon, enter a cancellation upon its records.

(b)(i) In the case of a mobile home or manufactured home for which a certificate of title has been issued, if such mobile home or manufactured home is affixed to real property in which each owner of the mobile home or manufactured home has any ownership interest, the certificate of title may be surrendered for cancellation to the county treasurer of the county where such mobile home or manufactured home is affixed to real property if at the time of surrender the owner submits to the county treasurer an affidavit of affixture on a form provided by the department that contains all of the following, as applicable:

(A) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(B) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(C) The legal description of the real property upon which the mobile home or manufactured home is affixed and the names of all of the owners of record of the real property;

(D) A statement that the mobile home or manufactured home is affixed to the real property;

(E) The written consent of each holder of a lien duly noted on the certificate of title to the release of such lien and the cancellation of the certificate of title;

(F) A copy of the certificate of title surrendered for cancellation; and

(G) The name and address of an owner, a financial institution, or another entity to which notice of cancellation of the certificate of title may be delivered.

(ii) The person submitting an affidavit of affixture pursuant to subdivision (b)(i) of this subsection shall swear or affirm that all statements in the affidavit are true and material and further acknowledge that any false statement in the affidavit may subject the person to penalties relating to perjury under section 28-915.

(2) If a certificate of title of a mobile home or manufactured home is surrendered to the county treasurer, along with the affidavit required by subdivision (1)(b) of this section, he or she shall enter a cancellation upon his or her records, notify the department of such cancellation, forward a duplicate original of the affidavit to the department, and deliver a duplicate original of the executed affidavit under subdivision (1)(b) of this section to the register of deeds for the county in which the real property is located to be filed by the register of deeds. The county treasurer shall be entitled to collect fees from the person submitting the affidavit in accordance with section 33-109 to cover the costs of filing such affidavit. Following the cancellation of a certificate of title for a mobile home or manufactured home, the county treasurer or designated county official shall not issue a certificate of title for such mobile home or manufactured home, except as provided in subsection (5) of this section.

(3) If a mobile home or manufactured home is affixed to real estate before June 1, 2006, a person who is the holder of a lien or security interest in both the mobile home or manufactured home and the real estate to which it is affixed on such date may enforce its liens or security interests by accepting a deed in lieu of foreclosure or in the manner provided by law for enforcing liens on the real estate.

(4) A mobile home or manufactured home for which the certificate of title has been canceled and for which an affidavit of affixture has been duly recorded pursuant to subsection (2) of this section shall be treated as part of the real estate upon which such mobile home or manufactured home is located. Any lien thereon shall be perfected and enforced in the same manner as a lien on real estate. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only as a part of the real estate to which it is affixed.

(5)(a) If each owner of both the mobile home or manufactured home and the real estate described in subdivision (1)(b) of this section intends to detach the mobile home or manufactured home from the real estate, the owner shall do both of the following: (i) Before detaching the mobile home or manufactured home, record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded under subdivision (1)(b) of this

section; and (ii) apply for a certificate of title for the mobile home or manufactured home pursuant to section 60-147.

(b) The affidavit of detachment shall contain all of the following:

(i) The names and addresses of all of the owners of record of the mobile home or manufactured home;

(ii) A description of the mobile home or manufactured home that includes the name of the manufacturer, the year of manufacture, the model, and the manufacturer's serial number;

(iii) The legal description of the real estate from which the mobile home or manufactured home is to be detached and the names of all of the owners of record of the real estate;

(iv) A statement that the mobile home or manufactured home is to be detached from the real property;

(v) A statement that the certificate of title of the mobile home or manufactured home has previously been canceled;

(vi) The name of each holder of a lien of record against the real estate from which the mobile home or manufactured home is to be detached, with the written consent of each holder to the detachment; and

(vii) The name and address of an owner, a financial institution, or another entity to which the certificate of title may be delivered.

(6) An owner of an affixed mobile home or manufactured home for which the certificate of title has previously been canceled pursuant to subsection (2) of this section shall not detach the mobile home or manufactured home from the real estate before a certificate of title for the mobile home or manufactured home is issued by the county treasurer or department. If a certificate of title is issued by the county treasurer or department, the mobile home or manufactured home is no longer considered part of the real property. Any lien thereon shall be perfected pursuant to section 60-164. The owner of such mobile home or manufactured home may convey ownership of the mobile home or manufactured home only by way of a certificate of title.

(7) For purposes of this section:

(a) A mobile home or manufactured home is affixed to real estate if the wheels, towing hitches, and running gear are removed and it is permanently attached to a foundation or other support system; and

(b) Ownership interest means the fee simple interest in real estate or an interest as the lessee under a lease of the real property that has a term that continues for at least twenty years after the recording of the affidavit under subsection (2) of this section.

(8) Upon cancellation of a certificate of title in the manner prescribed by this section, the county treasurer and the department may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Source: Laws 2005, LB 276, § 69; Laws 2006, LB 663, § 19; Laws 2012, LB14, § 6; Laws 2012, LB751, § 10; Laws 2012, LB801, § 44; Laws 2018, LB909, § 31.
Effective date April 12, 2018.

60-170 Nontransferable certificate of title; when issued; procedure; surrender for certificate of title; procedure.

(1) When an insurance company authorized to do business in Nebraska acquires a vehicle which has been properly titled and registered in a state other than Nebraska through payment of a total loss settlement on account of theft and the vehicle has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair, the company shall obtain the certificate of title from the owner and may make application for a nontransferable certificate of title by surrendering the certificate of title to the county treasurer. A nontransferable certificate of title shall be issued in the same manner and for the same fee or fees as provided for a certificate of title in sections 60-154 to 60-160 and shall be on a form prescribed by the department.

(2) A vehicle which has a nontransferable certificate of title shall not be sold or otherwise transferred or disposed of without first obtaining a certificate of title under the Motor Vehicle Certificate of Title Act.

(3) When a nontransferable certificate of title is surrendered for a certificate of title, the application shall be accompanied by a statement from the insurance company stating that to the best of its knowledge the vehicle has not become unusable for transportation through damage and has not sustained any malfunction beyond reasonable maintenance and repair. The statement shall not constitute or imply a warranty of condition to any subsequent purchaser or operator of the vehicle.

Source: Laws 2005, LB 276, § 70; Laws 2012, LB801, § 45.

60-171 Salvage branded certificate of title; terms, defined.

For purposes of sections 60-171 to 60-177:

(1) Cost of repairs means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for repair that are customary and reasonable. Retail cost of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the insurance industry;

(2) Flood damaged means damage to a vehicle resulting from being submerged in water to the point that rising water has reached over the floorboard, has entered the passenger compartment, and has caused damage to any electrical, computerized, or mechanical components. Flood damaged specifically does not apply to a vehicle that an inspection, conducted by an insurance claim representative or a vehicle repairer, indicates:

(a) Has no electrical, computerized, or mechanical components damaged by water; or

(b) Had one or more electrical, computerized, or mechanical components damaged by water and all such damaged components were repaired or replaced;

(3) Late model vehicle means a vehicle which has (a) a manufacturer's model year designation of, or later than, the year in which the vehicle was wrecked, damaged, or destroyed, or any of the six preceding years or (b)(i) in the case of vehicles other than all-terrain vehicles, utility-type vehicles, and minibikes, a retail value of more than ten thousand five hundred dollars until January 1, 2010, and a retail value of more than ten thousand five hundred dollars increased by five hundred dollars every five years thereafter or (ii) in the case of

all-terrain vehicles, utility-type vehicles, or minibikes, a retail value of more than one thousand seven hundred fifty dollars until January 1, 2010, and a retail value of more than one thousand seven hundred fifty dollars increased by two hundred fifty dollars every five years thereafter;

(4) Manufacturer buyback means the designation of a vehicle with an alleged nonconformity when the vehicle (a) has been replaced by a manufacturer or (b) has been repurchased by a manufacturer as the result of court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer;

(5) Previously salvaged means the designation of a rebuilt or reconstructed vehicle which was previously required to be issued a salvage branded certificate of title and which has been inspected as provided in section 60-146;

(6) Retail value means the actual cash value, fair market value, or retail value of a vehicle as (a) set forth in a current edition of any nationally recognized compilation, including automated data bases, of retail values or (b) determined pursuant to a market survey of comparable vehicles with respect to condition and equipment; and

(7) Salvage means the designation of a vehicle which is:

(a) A late model vehicle which has been wrecked, damaged, or destroyed to the extent that the estimated total cost of repair to rebuild or reconstruct the vehicle to its condition immediately before it was wrecked, damaged, or destroyed and to restore the vehicle to a condition for legal operation, meets or exceeds seventy-five percent of the retail value of the vehicle at the time it was wrecked, damaged, or destroyed; or

(b) Voluntarily designated by the owner of the vehicle as a salvage vehicle by obtaining a salvage branded certificate of title, without respect to the damage to, age of, or value of the vehicle.

Source: Laws 2005, LB 276, § 71; Laws 2010, LB650, § 19; Laws 2014, LB446, § 1; Laws 2018, LB909, § 32.
Effective date April 12, 2018.

60-173 Salvage branded certificate of title; insurance company; total loss settlement; when issued.

(1) When an insurance company acquires a salvage vehicle through payment of a total loss settlement on account of damage, the company shall obtain the certificate of title from the owner, surrender such certificate of title to the county treasurer, and make application for a salvage branded certificate of title which shall be assigned when the company transfers ownership. An insurer shall take title to a salvage vehicle for which a total loss settlement is made unless the owner of the salvage vehicle elects to retain the salvage vehicle.

(2) If the owner elects to retain the salvage vehicle, the insurance company shall notify the department of such fact in a format prescribed by the department. The department shall immediately enter the salvage brand onto the computerized record of the vehicle. Beginning on the implementation date designated by the director pursuant to subsection (3) of section 60-1508, the insurance company shall report electronically to the department using the electronic reporting system. The insurance company shall also notify the owner of the owner's responsibility to comply with this section. The owner shall, within thirty days after the settlement of the loss, forward the properly en-

dorsed acceptable certificate of title to the county treasurer in the county designated in section 60-144. The county treasurer shall, upon receipt of the certificate of title, issue a salvage branded certificate of title for the vehicle.

(3) An insurance company may apply to the department for a salvage branded certificate of title without obtaining a properly endorsed certificate of title from the owner or other evidence of ownership as prescribed by the department if it has been at least thirty days since the company obtained oral or written acceptance by the owner of an offer in an amount in settlement of a total loss. The insurance company shall submit an application form prescribed by the department for a salvage branded certificate of title accompanied by an affidavit from the insurance company that it has made at least two written attempts and has been unable to obtain the proper endorsed certificate of title from the owner following an oral or written acceptance by the owner of an offer of an amount in settlement of a total loss and evidence of settlement.

Source: Laws 2005, LB 276, § 73; Laws 2007, LB286, § 19; Laws 2012, LB801, § 46; Laws 2014, LB701, § 1; Laws 2018, LB909, § 33.
Effective date April 12, 2018.

60-174 Salvage branded certificate of title; salvage, previously salvaged, flood damaged, or manufacturer buyback title brand; inspection; when.

Whenever a title is issued in this state for a vehicle that is designated a salvage, previously salvaged, flood damaged, or manufacturer buyback, the following title brands shall be required: Salvage, previously salvaged, flood damaged, or manufacturer buyback. A certificate branded salvage, previously salvaged, flood damaged, or manufacturer buyback shall be administered in the same manner and for the same fee or fees as provided for a certificate of title in sections 60-154 to 60-160. When a salvage branded certificate of title is surrendered for a certificate of title branded previously salvaged, the application for a certificate of title shall be accompanied by a statement of inspection as provided in section 60-146.

Source: Laws 2005, LB 276, § 74; Laws 2018, LB909, § 34.
Effective date April 12, 2018.

60-175 Salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title; when issued; procedure.

Any person who acquires ownership of a salvage, flood-damaged, or manufacturer buyback vehicle for which he or she does not obtain a salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title shall surrender the certificate of title to the county treasurer and make application for a salvage branded, flood-damaged branded, or manufacturer buyback branded certificate of title within thirty days after acquisition or prior to the sale or resale of the vehicle or any major component part of such vehicle or use of any major component part of the vehicle, whichever occurs earlier.

Source: Laws 2005, LB 276, § 75; Laws 2012, LB801, § 47; Laws 2018, LB909, § 35.
Effective date April 12, 2018.

60-178 Stolen vehicle; duties of law enforcement and department.

Every sheriff, chief of police, or member of the patrol having knowledge of a stolen vehicle shall immediately furnish the department with full information in

connection therewith. The department, whenever it receives a report of the theft or conversion of such a vehicle, whether owned in this or any other state, together with the make and manufacturer's serial number or motor number, if applicable, shall make a distinctive record thereof and file the same in the numerical order of the manufacturer's serial number with the index records of such vehicle of such make. The department shall prepare a report listing such vehicles stolen and recovered as disclosed by the reports submitted to it, and the report shall be distributed as it may deem advisable. In the event of the receipt from any county treasurer of a copy of a certificate of title to such vehicle, the department shall immediately notify the rightful owner thereof and the county treasurer who issued such certificate of title, and if upon investigation it appears that such certificate of title was improperly issued, the department shall immediately cancel the same. In the event of the recovery of such stolen or converted vehicle, the owner shall immediately notify the department, which shall cause the record of the theft or conversion to be removed from its file.

Source: Laws 2005, LB 276, § 78; Laws 2012, LB801, § 48.

60-180 Violations; penalty.

(1) A person who operates in this state a vehicle for which a certificate of title is required without having such certificate in accordance with the Motor Vehicle Certificate of Title Act or upon which the certificate of title has been canceled is guilty of a Class III misdemeanor.

(2) A person who is a dealer or acting on behalf of a dealer and who acquires, purchases, holds, or displays for sale a new vehicle without having obtained a manufacturer's or importer's certificate or a certificate of title therefor as provided for in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(3) A person who fails to surrender any certificate of title or any certificate of registration or license plates or tags upon cancellation of the same by the department and notice thereof as prescribed in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(4) A person who fails to surrender the certificate of title to the county treasurer or department as provided in section 60-169 in case of the destruction or dismantling or change of a vehicle in such respect that it is not the vehicle described in the certificate of title is guilty of a Class III misdemeanor.

(5) A person who purports to sell or transfer a vehicle without delivering to the purchaser or transferee thereof a certificate of title or a manufacturer's or importer's certificate thereto duly assigned to such purchaser as provided in the Motor Vehicle Certificate of Title Act is guilty of a Class III misdemeanor.

(6) A person who knowingly alters or defaces a certificate of title or manufacturer's or importer's certificate is guilty of a Class III misdemeanor.

(7) Except as otherwise provided in section 60-179, a person who violates any of the other provisions of the Motor Vehicle Certificate of Title Act or any rules or regulations adopted and promulgated pursuant to the act is guilty of a Class III misdemeanor.

Source: Laws 2005, LB 276, § 80; Laws 2012, LB751, § 11; Laws 2012, LB801, § 49.

60-181 Vehicle identification inspections; training expenses; how paid.

The Nebraska State Patrol Cash Fund shall be used to defray the expenses of training personnel in title document examination, vehicle identification, and fraud and theft investigation and to defray the patrol's expenses arising pursuant to sections 60-181 to 60-189, including those incurred for printing and distribution of forms, personal services, hearings, and similar administrative functions. Personnel may include, but shall not be limited to, county treasurers, investigative personnel of the Nebraska Motor Vehicle Industry Licensing Board, and peace officers as defined in section 60-646. The training program shall be administered by the patrol. The patrol may utilize the Nebraska Law Enforcement Training Center to accomplish the training requirements of sections 60-181 to 60-189. The superintendent may make expenditures from the fund necessary to implement such training.

Source: Laws 2005, LB 276, § 81; Laws 2012, LB801, § 50.

60-184 Vehicle identification inspections; application for training; contents.

The sheriff may designate an employee of his or her office, any individual who is a peace officer as defined in section 60-646, or, by agreement, a county treasurer to assist in accomplishing inspections. Upon designation, the person shall request approval for training from the superintendent. Any person requesting approval for training shall submit a written application to the patrol. Such application shall include the following information: (1) The name and address of the applicant; (2) the name and address of the agency employing the applicant and the name of the agency head; and (3) such biographical information as the superintendent may require to facilitate the designation authorized by this section.

Source: Laws 2005, LB 276, § 84; Laws 2012, LB801, § 51.

60-189 Vehicle identification inspections; superintendent; duty.

The superintendent shall, from time to time, provide each county treasurer and each sheriff with a list of persons holding then current certificates of training.

Source: Laws 2005, LB 276, § 89; Laws 2012, LB801, § 52.

60-191 Odometers; repaired or replaced; notice.

If any odometer is repaired or replaced, the reading of the repaired or replaced odometer shall be set at the reading of the odometer repaired or replaced immediately prior to repair or replacement and the adjustment shall not be deemed a violation of section 60-190, except that when the repaired or replaced odometer is incapable of registering the same mileage as before such repair or replacement, the repaired or replaced odometer shall be adjusted to read zero and a notice in writing on a form prescribed by the department shall be attached to the left door frame of the motor vehicle, or in the case of a motorcycle, other than an autocycle, to the frame of the motorcycle, by the owner or his or her agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced and any

removal or alteration of such notice so affixed shall be deemed a violation of section 60-190.

Source: Laws 2005, LB 276, § 91; Laws 2018, LB909, § 36.
Effective date April 12, 2018.

60-192 Odometers; transferor; statement; contents.

The transferor of any motor vehicle of an age of less than ten years, which was equipped with an odometer by the manufacturer, shall provide to the transferee a statement, signed by the transferor, setting forth: (1) The mileage on the odometer at the time of transfer; and (2)(a) a statement that, to the transferor's best knowledge, such mileage is that actually driven by the motor vehicle, (b) a statement that the transferor has knowledge that the mileage shown on the odometer is in excess of the designated mechanical odometer limit, or (c) a statement that the odometer reading does not reflect the actual mileage and should not be relied upon because the transferor has knowledge that the odometer reading differs from the actual mileage and that the difference is greater than that caused by odometer calibration error. If a discrepancy exists between the odometer reading and the actual mileage, a warning notice to alert the transferee shall be included with the statement. The transferor shall retain a true copy of such statement for a period of five years from the date of the transaction. Beginning on the implementation date designated by the director pursuant to subsection (2) of section 60-1508, if motor vehicle ownership has been transferred by operation of law pursuant to repossession under subdivision (2)(b)(iv) of section 60-166, the mileage shall be listed as the odometer reading at the time of the most recent transfer of ownership prior to the repossession of the motor vehicle. The adjustment shall not be deemed a violation of section 60-190.

Source: Laws 2005, LB 276, § 92; Laws 2017, LB263, § 22; Laws 2018, LB909, § 37.
Effective date April 12, 2018.

ARTICLE 3

MOTOR VEHICLE REGISTRATION

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- 60-3,232. Choose Life License Plates; design.
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- 60-3,234. Native American Cultural Awareness and History Plates; design requirements.
- 60-3,235. Native American Cultural Awareness and History Plates; application; form; fee; delivery; transfer; procedure; fee.

60-301 Act, how cited.

Sections 60-301 to 60-3,235 shall be known and may be cited as the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 1; Laws 2006, LB 663, § 21; Laws 2007, LB286, § 20; Laws 2007, LB349, § 1; Laws 2007, LB570, § 1; Laws 2008, LB756, § 5; Laws 2009, LB110, § 1; Laws 2009, LB129, § 1; Laws 2010, LB650, § 20; Laws 2011, LB163, § 16; Laws 2011, LB289, § 12; Laws 2012, LB216, § 1; Laws 2012, LB1155, § 7; Laws 2014, LB383, § 1; Laws 2014, LB816, § 1; Laws 2015, LB220, § 1; Laws 2015, LB231, § 6; Laws 2016, LB474, § 3; Laws 2016, LB783, § 1; Laws 2016, LB977, § 5; Laws 2017, LB46, § 1; Laws 2017, LB263, § 23; Laws 2018, LB909, § 38.

Effective date April 12, 2018.

60-302 Definitions, where found.

For purposes of the Motor Vehicle Registration Act, unless the context otherwise requires, the definitions found in sections 60-302.01 to 60-360 shall be used.

Source: Laws 2005, LB 274, § 2; Laws 2007, LB286, § 21; Laws 2008, LB756, § 6; Laws 2010, LB650, § 21; Laws 2011, LB163, § 17; Laws 2012, LB1155, § 8; Laws 2015, LB231, § 7; Laws 2016, LB783, § 2; Laws 2017, LB263, § 24; Laws 2018, LB909, § 39. Effective date April 12, 2018.

60-302.01 Access aisle, defined.

Access aisle means a space adjacent to a handicapped parking space or passenger loading zone which is constructed and designed in compliance with the federal Americans with Disabilities Act of 1990 and the federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2011.

Source: Laws 2011, LB163, § 18.

60-305 All-terrain vehicle, defined.

All-terrain vehicle means any motorized off-highway vehicle which (1) is fifty inches or less in width, (2) has a dry weight of twelve hundred pounds or less, (3) travels on three or more nonhighway tires, and (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger. All-terrain vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.

Source: Laws 2005, LB 274, § 5; Laws 2014, LB814, § 5.

60-306 Alternative fuel, defined.

Alternative fuel includes electricity, solar power, and any other source of energy not otherwise taxed under the motor fuel laws as defined in section 66-712 which is used to power a motor vehicle. Alternative fuel does not include motor vehicle fuel as defined in section 66-482, diesel fuel as defined in section 66-482, or compressed fuel as defined in section 66-6,100.

Source: Laws 2005, LB 274, § 6; Laws 2011, LB289, § 13.

60-308 Apportionable vehicle, defined.

(1) Apportionable vehicle means any motor vehicle or trailer used or intended for use in two or more member jurisdictions that allocate or proportionally register motor vehicles or trailers and used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property.

(2) Apportionable vehicle does not include any recreational vehicle, motor vehicle displaying restricted plates, city pickup and delivery vehicle, or government-owned motor vehicle.

(3) An apportionable vehicle that is a power unit shall (a) have two axles and a gross vehicle weight or registered gross vehicle weight in excess of twenty-six

thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms, (b) have three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms gross vehicle weight. Vehicles or combinations of vehicles having a gross vehicle weight of twenty-six thousand pounds or eleven thousand seven hundred ninety-three and four hundred one thousandths kilograms or less and two-axle vehicles may be proportionally registered at the option of the registrant.

Source: Laws 2005, LB 274, § 8; Laws 2007, LB286, § 22; Laws 2018, LB177, § 1.
Effective date July 19, 2018.

60-309 Assembled vehicle, defined.

Assembled vehicle means a motor vehicle or trailer which was manufactured or assembled less than thirty years prior to application for registration under the Motor Vehicle Registration Act and which is materially altered from its construction by the removal, addition, or substitution of new or used major component parts unless such major component parts were replaced under warranty by the original manufacturer of the motor vehicle or trailer. Its make shall be assembled, and its model year shall be the year in which the motor vehicle or trailer was assembled.

Source: Laws 2005, LB 274, § 9; Laws 2018, LB909, § 42.
Effective date April 12, 2018.

60-309.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 8; Laws 2018, LB909, § 43.
Effective date April 12, 2018.

60-310 Automobile liability policy, defined.

Automobile liability policy means liability insurance written by an insurance carrier duly authorized to do business in this state protecting other persons from damages for liability on account of accidents occurring subsequent to the effective date of the insurance arising out of the ownership of a motor vehicle (1) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (2) subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (3) in the amount of twenty-five thousand dollars because of injury to or destruction of property of other persons in any one accident. An automobile liability policy shall not exclude,

limit, reduce, or otherwise alter liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or residing in the household with the named insured.

Source: Laws 2005, LB 274, § 10; Laws 2013, LB316, § 1.

60-310.01 Auxiliary axle, defined.

Auxiliary axle means an auxiliary undercarriage assembly with a fifth wheel and tow bar used to convert a semitrailer to a full trailer, commonly known as converter gears or converter dollies.

Source: Laws 2018, LB909, § 40.
Effective date April 12, 2018.

60-314.01 Car toter or tow dolly, defined.

Car toter or tow dolly means a two-wheeled conveyance designed or adapted to support the weight of one axle of a motor vehicle while being towed in combination behind another motor vehicle.

Source: Laws 2018, LB909, § 41.
Effective date April 12, 2018.

60-316 Commercial motor vehicle, defined.

(1) This subsection applies until January 1, 2023. Commercial motor vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include farm trucks or public power district motor vehicles.

(2) This subsection applies beginning January 1, 2023. Commercial motor vehicle means any motor vehicle used or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property and does not include farm trucks, metropolitan utilities district motor vehicles, or public power district motor vehicles.

Source: Laws 2005, LB 274, § 16; Laws 2016, LB783, § 3; Laws 2018, LB909, § 44.
Effective date April 12, 2018.

60-317 Commercial trailer, defined.

Commercial trailer means any trailer or semitrailer which has a gross weight, including load thereon, of more than nine thousand pounds and which is designed, used, or maintained for the transportation of persons or property for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property. Commercial trailer does not include cabin trailers, farm trailers, fertilizer trailers, or utility trailers.

Source: Laws 2005, LB 274, § 17; Laws 2016, LB783, § 4; Laws 2017, LB263, § 25.

60-320 Repealed. Laws 2012, LB 801, § 102.

60-323 Evidence of insurance, defined.

Evidence of insurance means evidence of a current and effective automobile liability policy in paper or electronic format.

Source: Laws 2005, LB 274, § 23; Laws 2014, LB816, § 2.

60-329.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes.

Source: Laws 2012, LB1155, § 9.

60-331.01 Handicapped or disabled parking permit, defined.

Handicapped or disabled parking permit means a permit issued by the department that authorizes the use of parking spaces and access aisles that have been designated for the exclusive use of handicapped or disabled persons.

Source: Laws 2011, LB163, § 19; Laws 2014, LB657, § 3.

60-331.02 Handicapped or disabled person, defined.

Handicapped or disabled person means any individual with a severe visual or physical impairment which limits personal mobility and results in an inability to travel more than two hundred feet without stopping or without the use of a wheelchair, crutch, walker, or prosthetic, orthotic, or other assistant device, any individual whose personal mobility is limited as a result of respiratory problems, any individual who has a cardiac condition to the extent that his or her functional limitations are classified in severity as being Class III or Class IV, according to standards set by the American Heart Association, and any individual who has permanently lost all or substantially all the use of one or more limbs.

Source: Laws 2011, LB163, § 20; Laws 2016, LB865, § 1.

60-335 Kit vehicle, defined.

Kit vehicle means a motor vehicle or trailer which was assembled by a person other than a generally recognized manufacturer of motor vehicles or trailers by the use of a reproduction resembling a specific manufacturer's make and model that is at least thirty years old purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin. Kit vehicle does not include glider kits.

Source: Laws 2005, LB 274, § 35; Laws 2018, LB909, § 45.
Effective date April 12, 2018.

60-335.01 Licensed dealer, defined.

Licensed dealer means a motor vehicle dealer, motorcycle dealer, or trailer dealer licensed under the Motor Vehicle Industry Regulation Act.

Source: Laws 2017, LB263, § 26.

Cross References

Motor Vehicle Industry Regulation Act, see section 60-1401.

60-336.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, (c) which is equipped with a windshield and an occupant protection system, and (d) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2007, LB286, § 26; Laws 2011, LB289, § 14; Laws 2014, LB776, § 1; Laws 2015, LB313, § 1; Laws 2016, LB929, § 2; Laws 2017, LB263, § 27; Laws 2018, LB909, § 46.
Effective date April 12, 2018.

60-336.02 Metropolitan utilities district, defined.

Metropolitan utilities district means a district created pursuant to section 14-2101.

Source: Laws 2018, LB909, § 47.
Effective date April 12, 2018.

60-337.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 22; Laws 2012, LB898, § 2.

60-338 Moped, defined.

Moped means a device 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 device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 2005, LB 274, § 38; Laws 2015, LB95, § 5.

60-339 Motor vehicle, defined.

Motor vehicle means any vehicle propelled by any power other than muscular power. Motor vehicle does not include (1) mopeds, (2) farm tractors, (3) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (4) power unit hay grinders or a combination which includes a power unit and a hay grinder when operated without cargo, (5) vehicles which run only on rails or tracks, (6) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles, utility-type vehicles, snowmobiles registered or exempt from registration under sections 60-3,207 to 60-3,219, and minibikes, (7) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to, ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, and crawler tractors, (8) self-propelled chairs used by persons who are disabled, (9) electric personal assistive mobility devices, and (10) bicycles as defined in section 60-611.

Source: Laws 2005, LB 274, § 39; Laws 2007, LB286, § 27; Laws 2010, LB650, § 23; Laws 2011, LB289, § 15; Laws 2012, LB1155, § 10; Laws 2015, LB95, § 6.

60-340 Motorcycle, defined.

Motorcycle means any motor vehicle having a seat or saddle for use of the operator and designed to travel on not more than three wheels in contact with the ground. Motorcycle includes an autocycle.

Source: Laws 2005, LB 274, § 40; Laws 2015, LB231, § 9; Laws 2018, LB909, § 48.
Effective date April 12, 2018.

60-344 Parts vehicle, defined.

Parts vehicle means a vehicle or trailer the title to which has been surrendered (1) in accordance with subdivision (1)(a) of section 60-169 or (2) to any other state by the owner of the vehicle or an insurance company to render the vehicle fit for sale for scrap and parts only.

Source: Laws 2005, LB 274, § 44; Laws 2011, LB241, § 5.

60-346.01 Public power district, defined.

Public power district means a district as defined by section 70-601 receiving annual gross revenue of at least forty million dollars as determined by the Nebraska Power Review Board.

Source: Laws 2016, LB783, § 5.

60-346.02 Reconstructed, defined.

Reconstructed means the designation of a vehicle which was permanently altered from its original design construction by removing, adding, or substituting major component parts.

Source: Laws 2018, LB909, § 49.
Effective date April 12, 2018.

60-346.03 Replica, defined.

Replica means the designation of a vehicle which resembles a specific manufacturer's make and model that is at least thirty years old and which has been assembled as a kit vehicle.

Source: Laws 2018, LB909, § 50.
Effective date April 12, 2018.

60-348 Semitrailer, defined.

Semitrailer means any trailer so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle. Semitrailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 274, § 48; Laws 2018, LB909, § 51.
Effective date April 12, 2018.

60-352.01 Temporarily handicapped or disabled person, defined.

Temporarily handicapped or disabled person means any handicapped or disabled person whose personal mobility is expected to be limited as described in section 60-331.02 for no longer than one year.

Source: Laws 2011, LB163, § 21.

60-354 Trailer, defined.

Trailer means any device without motive power designed for carrying persons or property and being towed by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. Trailer does not include an auxiliary axle or a car toter or tow dolly.

Source: Laws 2005, LB 274, § 54; Laws 2018, LB909, § 52.
Effective date April 12, 2018.

60-358.01 Utility-type vehicle, defined.

(1) Utility-type vehicle means any motorized off-highway vehicle which (a) is seventy-four inches in width or less, (b) is not more than one hundred eighty inches, including the bumper, in length, (c) has a dry weight of two thousand pounds or less, and (d) travels on four or more nonhighway tires. Utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.

(2) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

Source: Laws 2010, LB650, § 24; Laws 2012, LB1155, § 11; Laws 2013, LB223, § 2; Laws 2014, LB814, § 6.

60-363 Registration certificate; duty to carry, exceptions.

(1) No person shall operate or park a motor vehicle on the highways unless such motor vehicle at all times carries in or upon it, subject to inspection by any peace officer, the registration certificate issued for it.

(2) No person shall tow or park a trailer on the highways unless the registration certificate issued for the trailer or a copy thereof is carried in or upon the trailer or in or upon the motor vehicle that is towing or parking the trailer, subject to inspection by any peace officer, except as provided in subsections (4) and (5) of this section and except fertilizer trailers as defined in section 60-326. The registration certificate for a fertilizer trailer shall be kept at the principal place of business of the owner of the fertilizer trailer.

(3) In the case of a motorcycle other than an autocycle, the registration certificate shall be carried either in plain sight, affixed to the motorcycle, or in the tool bag or some convenient receptacle attached to the motorcycle.

(4) In the case of a motor vehicle or trailer operated by a public power district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the public power district.

(5) Beginning January 1, 2023, in the case of a motor vehicle or trailer operated by a metropolitan utilities district registered pursuant to section 60-3,228, the registration certificate shall be kept at the principal place of business of the metropolitan utilities district.

Source: Laws 2005, LB 274, § 63; Laws 2010, LB725, § 1; Laws 2014, LB758, § 1; Laws 2017, LB263, § 28; Laws 2018, LB909, § 53. Effective date April 12, 2018.

60-365 Operation of vehicle without registration; limitation; proof of ownership.

Any person purchasing a motor vehicle or trailer in this state other than from a licensed dealer in motor vehicles or trailers shall not operate or tow such motor vehicle or trailer in this state without registration except as provided in this section. Such purchaser may operate or tow such motor vehicle or trailer without registration for a period not to exceed thirty days. Upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer, for examination, a bill of sale showing the date of transfer or the certificate of title to such motor vehicle or trailer with assignment thereof duly executed. When such motor vehicle or trailer is purchased from a nonresident, the person in charge of such motor vehicle or trailer shall present upon demand proper evidence of ownership from the state where such motor vehicle or trailer was purchased.

Source: Laws 2005, LB 274, § 65; Laws 2008, LB756, § 11; Laws 2012, LB751, § 12.

60-366 Nonresident owner; registration; when; reciprocity; avoidance of proper registration; Department of Motor Vehicles or Department of Revenue; powers; notice; determination; appeal; penalty; when.

(1) Any nonresident owner who desires to register a motor vehicle or trailer in this state shall register in the county where the motor vehicle or trailer is domiciled or where the owner conducts a bona fide business.

(2) A nonresident owner, except as provided in subsections (3) and (4) of this section, owning any motor vehicle or trailer which has been properly registered in the state, country, or other place of which the owner is a resident, and which at all times, when operated or towed in this state, has displayed upon it the license plate or plates issued for such motor vehicle or trailer in the place of

residence of such owner, may operate or permit the operation or tow or permit the towing of such motor vehicle or trailer within the state without registering such motor vehicle or trailer or paying any fees to this state.

(3)(a) Except as otherwise provided in subdivision (c) of this subsection, any nonresident owner gainfully employed or present in this state, operating a motor vehicle or towing a trailer in this state, shall register such motor vehicle or trailer in the same manner as a Nebraska resident, after thirty days of continuous employment or presence in this state, unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(b) Except as otherwise provided in subdivision (c) of this subsection, any nonresident owner who operates a motor vehicle or tows a trailer in this state for thirty or more continuous days shall register such motor vehicle or trailer in the same manner as a Nebraska resident unless the state of his or her legal residence grants immunity from such requirements to residents of this state operating a motor vehicle or towing a trailer in that state.

(c) Any nonresident owner of a film vehicle may operate the film vehicle for up to one year without registering the vehicle in this state.

(4)(a) The Department of Motor Vehicles or the Department of Revenue may determine (i) that a limited liability company, partnership, corporation, or other business entity that is organized under the laws of another state or country and that owns or holds title to a recreational vehicle is a shell company used to avoid proper registration of the recreational vehicle in this state and (ii) that the recreational vehicle is controlled by a Nebraska resident.

(b) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the limited liability company, partnership, corporation, or other business entity is a shell company used to avoid proper registration of the recreational vehicle in this state include, but are not limited to:

(i) The limited liability company, partnership, corporation, or other business entity lacks a business activity or purpose;

(ii) The limited liability company, partnership, corporation, or other business entity does not maintain a physical location in this state;

(iii) The limited liability company, partnership, corporation, or other business entity does not employ individual persons and provide those persons with Internal Revenue Service Form W-2 wage and tax statements; or

(iv) The limited liability company, partnership, corporation, or other business entity fails to file federal tax returns or fails to file a state tax return in this state.

(c) Factors that the Department of Motor Vehicles or the Department of Revenue may consider to determine that the recreational vehicle is controlled by a Nebraska resident include, but are not limited to:

(i) A Nebraska resident was the initial purchaser of the recreational vehicle;

(ii) A Nebraska resident operated or stored the recreational vehicle in this state for any period of time;

(iii) A Nebraska resident is a member, partner, or shareholder or is otherwise affiliated with the limited liability company, partnership, corporation, or other business entity purported to own the recreational vehicle; or

(iv) A Nebraska resident is insured to operate the recreational vehicle.

(d) If the Department of Motor Vehicles or the Department of Revenue makes the determinations described in subdivision (4)(a) of this section, there is a rebuttable presumption that:

(i) The Nebraska resident in control of the recreational vehicle is the actual owner of the recreational vehicle;

(ii) Such Nebraska resident is required to register the recreational vehicle in this state and is liable for all motor vehicle taxes, motor vehicle fees, and registration fees as provided in the Motor Vehicle Registration Act; and

(iii) The purchase of the recreational vehicle is subject to sales or use tax under section 77-2703.

(e) The Department of Motor Vehicles or the Department of Revenue shall notify the Nebraska resident who is presumed to be the owner of the recreational vehicle that he or she is required to register the recreational vehicle in this state, pay any applicable taxes and fees for proper registration of the recreational vehicle under the Motor Vehicle Registration Act, and pay any applicable sales or use tax due on the purchase under the Nebraska Revenue Act of 1967 no later than thirty days after the date of the notice.

(f)(i) For a determination made by the Department of Motor Vehicles under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may accept the determination and pay the county treasurer as shown in the notice, or he or she may dispute the determination and appeal the matter. Such appeal shall be filed with the Director of Motor Vehicles within thirty days after the date of the notice or the determination will be final. The director shall appoint a hearing officer who shall hear the appeal and issue a written decision. Such appeal shall be in accordance with the Administrative Procedure Act. Following a final determination in the appeal in favor of the Department of Motor Vehicles or if no further appeal is filed, the Nebraska resident shall owe the taxes and fees determined to be due, together with any costs for the appeal assessed against the owner.

(ii) For a determination made by the Department of Revenue under this subsection, the Nebraska resident who is presumed to be the owner of the recreational vehicle may appeal the determination made by the Department of Revenue, and such appeal shall be in accordance with section 77-2709.

(g) If the Nebraska resident who is presumed to be the owner of the recreational vehicle fails to pay the motor vehicle taxes, motor vehicle fees, registration fees, or sales or use tax required to be paid under this subsection, he or she shall be assessed a penalty of fifty percent of such unpaid taxes and fees. Such penalty shall be remitted by the county treasurer or the Department of Revenue to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2005, LB 274, § 66; Laws 2014, LB851, § 4; Laws 2015, LB45, § 1.

Cross References

Administrative Procedure Act, see section 84-920.

Nebraska Revenue Act of 1967, see section 77-2701.

60-367 Nonresident; applicability of act.

Except as otherwise provided in section 60-366, the provisions of the Motor Vehicle Registration Act relative to registration and display of registration

numbers do not apply to a motor vehicle or trailer owned by a nonresident of this state, other than a foreign corporation doing business in this state, if the owner thereof has complied with the provisions of the law of the foreign country, state, territory, or federal district of his or her residence relative to registration of motor vehicles or trailers and the display of registration numbers thereon and conspicuously displays his or her registration numbers as required thereby.

Source: Laws 2005, LB 274, § 67; Laws 2014, LB851, § 5.

60-370 County number system; alphanumeric system.

(1) Except as provided in subsection (3) of this section:

(a) In counties having a population of one hundred thousand inhabitants or more according to the most recent federal decennial census, registration of motor vehicles or trailers shall be by the alphanumeric system; and

(b) In all other counties, registration of motor vehicles or trailers shall be, at the option of each county board, by either the alphanumeric system or the county number system.

(2) Counties using the county number system shall show on motor vehicles or trailers licensed therein a county number on the license plate preceding a dash which shall then be followed by the registration number assigned to the motor vehicle or trailer. The county numbers assigned to the counties in Nebraska shall be as follows:

| No. | Name of County | No. | Name of County |
|-----|----------------|-----|----------------|
| 1 | Douglas | 2 | Lancaster |
| 3 | Gage | 4 | Custer |
| 5 | Dodge | 6 | Saunders |
| 7 | Madison | 8 | Hall |
| 9 | Buffalo | 10 | Platte |
| 11 | Otoe | 12 | Knox |
| 13 | Cedar | 14 | Adams |
| 15 | Lincoln | 16 | Seward |
| 17 | York | 18 | Dawson |
| 19 | Richardson | 20 | Cass |
| 21 | Scotts Bluff | 22 | Saline |
| 23 | Boone | 24 | Cuming |
| 25 | Butler | 26 | Antelope |
| 27 | Wayne | 28 | Hamilton |
| 29 | Washington | 30 | Clay |
| 31 | Burt | 32 | Thayer |
| 33 | Jefferson | 34 | Fillmore |
| 35 | Dixon | 36 | Holt |
| 37 | Phelps | 38 | Furnas |
| 39 | Cheyenne | 40 | Pierce |
| 41 | Polk | 42 | Nuckolls |
| 43 | Colfax | 44 | Nemaha |
| 45 | Webster | 46 | Merrick |
| 47 | Valley | 48 | Red Willow |
| 49 | Howard | 50 | Franklin |
| 51 | Harlan | 52 | Kearney |
| 53 | Stanton | 54 | Pawnee |
| 55 | Thurston | 56 | Sherman |
| 57 | Johnson | 58 | Nance |

| | | | |
|----|-----------|----|-----------|
| 59 | Sarpy | 60 | Frontier |
| 61 | Sheridan | 62 | Greeley |
| 63 | Boyd | 64 | Morrill |
| 65 | Box Butte | 66 | Cherry |
| 67 | Hitchcock | 68 | Keith |
| 69 | Dawes | 70 | Dakota |
| 71 | Kimball | 72 | Chase |
| 73 | Gosper | 74 | Perkins |
| 75 | Brown | 76 | Dundy |
| 77 | Garden | 78 | Deuel |
| 79 | Hayes | 80 | Sioux |
| 81 | Rock | 82 | Keya Paha |
| 83 | Garfield | 84 | Wheeler |
| 85 | Banner | 86 | Blaine |
| 87 | Logan | 88 | Loup |
| 89 | Thomas | 90 | McPherson |
| 91 | Arthur | 92 | Grant |
| 93 | Hooker | | |

(3) Counties using the alphanumeric system shall show on the license plates of motor vehicles or trailers licensed therein a combination of three letters followed by a combination of three numerals. The department may adopt and promulgate rules and regulations creating alphanumeric distinctions on the license plates based upon the registration of the motor vehicle or trailer and designating plate types that shall display county numbers on a statewide basis, taking into consideration cost, the need for uniformity, factors applicable to the production, distribution, and use of specific plate types, and any other factors consistent with the purposes of the Motor Vehicle Registration Act that the director deems relevant.

Source: Laws 2005, LB 274, § 70; Laws 2016, LB811, § 1.

60-371 Exemption from civil liability.

The county and the county treasurer and his or her employees or agents shall be exempt from all civil liability when carrying out powers and duties delegated under the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 71; Laws 2012, LB801, § 53.

60-372 Vehicle Title and Registration System; agent of county treasurer; appointment.

(1) Each county shall issue and file registration certificates using the Vehicle Title and Registration System which shall be provided and maintained by the department.

(2) The county treasurer may appoint an agent to issue registration certificates and to accept the payment of taxes and fees as provided in the Motor Vehicle Registration Act, upon approval of the county board. The agent shall furnish a bond in such amount and upon such conditions as determined by the county board.

Source: Laws 2005, LB 274, § 72; Laws 2012, LB801, § 54; Laws 2017, LB263, § 29.

60-373 Operation of vehicle without registration; dealer; employee or agent; licensed manufacturer; conditions.

(1) Each licensed motor vehicle dealer or trailer dealer as defined in sections 60-1401.26 and 60-1401.37, respectively, doing business in this state, in lieu of registering each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any full-time or part-time employee or agent of such dealer may, if the motor vehicle or trailer displays dealer number plates:

(a) Operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of business as a motor vehicle or trailer dealer. Such use may include personal or private use by the dealer and personal or private use by any bona fide employee, if the employee can be verified by payroll records maintained at the dealership as ordinarily working more than thirty hours per week or fifteen hundred hours per year at the dealership;

(b) Operate or tow the motor vehicle or trailer upon the highways of this state for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery; or

(c) Sell the motor vehicle or trailer.

(2) Each licensed manufacturer as defined in section 60-1401.24 which actually manufactures or assembles motor vehicles or trailers within this state, in lieu of registering each motor vehicle or trailer which such manufacturer owns of a type otherwise required to be registered, or any employee of such manufacturer may operate or tow the motor vehicle or trailer upon the highways of this state solely for purposes of transporting, testing, demonstrating to prospective customers, or use in the ordinary course and conduct of business as a motor vehicle or trailer manufacturer, upon the condition that any such motor vehicle or trailer display thereon, in the manner prescribed in section 60-3,100, dealer number plates as provided for in section 60-3,114.

(3) In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, or trailers which are inventory of such licensed dealer or manufacturer unless there is issued by the department a special permit specifying the hauling of other products. This section shall not be construed to allow a dealer to operate a motor vehicle or trailer with dealer number plates for the delivery of parts inventory. A dealer may use such motor vehicle or trailer to pick up parts to be used for the motor vehicle or trailer inventory of the dealer.

Source: Laws 2005, LB 274, § 73; Laws 2010, LB816, § 7; Laws 2017, LB346, § 1.

60-376 Operation of vehicle without registration; In Transit sticker; records required; proof of ownership.

Subject to all the provisions of law relating to motor vehicles and trailers not inconsistent with this section, any motor vehicle dealer or trailer dealer who is regularly engaged within this state in the business of buying and selling motor vehicles and trailers, who regularly maintains within this state an established place of business, and who desires to effect delivery of any motor vehicle or trailer bought or sold by him or her from the point where purchased or sold to points within or outside this state may, solely for the purpose of such delivery

by himself or herself, his or her agent, or a bona fide purchaser, operate such motor vehicle or tow such trailer on the highways of this state without charge or registration of such motor vehicle or trailer. A sticker shall be displayed on the front and rear windows or the rear side windows of such motor vehicle, except an autocycle or a motorcycle, and displayed on the front and rear of each such trailer. On the sticker shall be plainly printed in black letters the words In Transit. One In Transit sticker shall be displayed on an autocycle or a motorcycle, which sticker may be one-half the size required for other motor vehicles. Such stickers shall include a registration number, which registration number shall be different for each sticker or pair of stickers issued, and the contents of such sticker and the numbering system shall be as prescribed by the department. Each dealer issuing such stickers shall keep a record of the registration number of each sticker or pair of stickers on the invoice of such sale. Such sticker shall allow such owner to operate the motor vehicle or tow such trailer for a period of thirty days in order to effect proper registration of the new or used motor vehicle or trailer. When any person, firm, or corporation has had a motor vehicle or trailer previously registered and license plates assigned to such person, firm, or corporation, such owner may operate the motor vehicle or tow such trailer for a period of thirty days in order to effect transfer of plates to the new or used motor vehicle or trailer. Upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer, for examination, a duly executed bill of sale therefor or other satisfactory evidence of the right of possession by such person of such motor vehicle or trailer.

Source: Laws 2005, LB 274, § 76; Laws 2008, LB756, § 12; Laws 2015, LB231, § 10.

60-378 Transporter plates; fee; records.

(1) Any transporter doing business in this state may, in lieu of registering each motor vehicle or trailer which such transporter is transporting, upon payment of a fee of ten dollars, apply to the department for a transporter's certificate and one transporter license plate. Additional pairs of transporter certificates and transporter license plates may be procured for a fee of ten dollars each. Transporter license plates shall be displayed (a) upon the motor vehicle or trailer being transported or (b) upon a properly registered truck or truck-tractor which is a work or service vehicle in the process of towing a trailer which is itself being delivered by the transporter, and such registered truck or truck-tractor shall also display a transporter plate upon the front thereof. The applicant for a transporter plate shall keep for six years a record of each motor vehicle or trailer transported by him or her under this section, and such record shall be available to the department for inspection. Each applicant shall file with the department proof of his or her status as a bona fide transporter.

(2) Transporter license plates may be the same size as license plates issued for motorcycles other than autocycles, shall bear thereon a mark to distinguish them as transporter plates, and shall be serially numbered so as to distinguish them from each other. Such license plates may only be displayed upon the front of a driven motor vehicle of a lawful combination or upon the front of a motor vehicle driven singly or upon the rear of a trailer being towed.

Source: Laws 2005, LB 274, § 78; Laws 2007, LB286, § 32; Laws 2018, LB909, § 54.

Effective date April 12, 2018.

60-382 Nonresident owners; thirty-day license plate; application; fee; certificate; contents.

(1) Any person, not a resident of this state, who is the owner of a motor vehicle or trailer required to be registered in this state or any other state may, for the sole purpose of delivering, or having delivered, such motor vehicle or trailer, to his or her home or place of business in another state, apply for and obtain a thirty-day license plate which shall allow such person or his or her agent or employee to operate such motor vehicle or trailer upon the highways under conditions set forth in subsection (2) of this section, without obtaining a certificate of title to such motor vehicle in this state.

(2) Applications for such thirty-day license plate shall be made to the county treasurer of the county where such motor vehicle or trailer was purchased or acquired. Upon receipt of such application and payment of the fee of five dollars, the county treasurer shall issue to such applicant a thirty-day license plate, which shall be devised by the director, and evidenced by the official certificate of the county treasurer, which certificate shall state the name of the owner and operator of the motor vehicle or trailer so licensed, the description of such motor vehicle or trailer, the place in Nebraska where such motor vehicle or trailer was purchased or otherwise acquired, the place where delivery is to be made, and the time, not to exceed thirty days from date of purchase or acquisition of the motor vehicle or trailer, during which time such license plate shall be valid.

(3) Nonresident owner thirty-day license plates issued under this section shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100.

Source: Laws 2005, LB 274, § 82; Laws 2012, LB801, § 55.

60-383 Repealed. Laws 2015, LB 45, § 4.**60-383.02 Low-speed vehicle; registration; fee.**

For the registration of every low-speed vehicle, the fee shall be fifteen dollars.

Source: Laws 2011, LB289, § 16.

60-384 Nonresident carnival operator; thirty-day permit; fees; reciprocity.

Upon receipt of an application duly verified, a nonresident carnival operator shall be issued a thirty-day carnival operators' permit to operate in Nebraska upon the payment of the following fees: For the gross vehicle weight of sixteen thousand pounds or less, ten dollars; for more than sixteen thousand pounds and not more than twenty-eight thousand pounds, fifteen dollars; for more than twenty-eight thousand pounds and not more than forty thousand pounds, twenty dollars; and for more than forty thousand pounds and not more than seventy-three thousand two hundred eighty pounds, twenty-five dollars, except that such a permit shall be issued only to out-of-state operators when the jurisdiction in which the motor vehicle and trailer is registered grants reciprocity to Nebraska. Such fees shall be paid to the county treasurer or persons designated by the director, who shall have authority to issue the permit when the applicant is eligible and pays the required fee. All fees collected under this section shall be paid into the state treasury and by the State Treasurer credited to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 84; Laws 2012, LB801, § 56.

60-385 Application; situs.

Every owner of a motor vehicle or trailer required to be registered shall make application for registration to the county treasurer of the county in which the motor vehicle or trailer has situs. The application shall be by any means designated by the department. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may submit such application electronically to the appropriate county treasurer or the department. A salvage branded certificate of title and a nontransferable certificate of title provided for in section 60-170 shall not be valid for registration purposes.

Source: Laws 2005, LB 274, § 85; Laws 2006, LB 765, § 6; Laws 2007, LB286, § 33; Laws 2012, LB801, § 57; Laws 2017, LB263, § 30.

60-386 Application; contents.

(1) Each new application shall contain, in addition to other information as may be required by the department, the name and residential and mailing address of the applicant and a description of the motor vehicle or trailer, including the color, the manufacturer, the identification number, the United States Department of Transportation number if required by 49 C.F.R. 390.5 and 390.19, as such regulations existed on January 1, 2018, and the weight of the motor vehicle or trailer required by the Motor Vehicle Registration Act. Beginning on the implementation date designated by the director pursuant to subsection (4) of section 60-1508, for trailers which are not required to have a certificate of title under section 60-137 and which have no identification number, the assignment of an identification number shall be required and the identification number shall be issued by the county treasurer or department. With the application the applicant shall pay the proper registration fee and shall state whether the motor vehicle is propelled by alternative fuel and, if alternative fuel, the type of fuel. The application shall also contain a notification that bulk fuel purchasers may be subject to federal excise tax liability. The department shall include such notification in the notices required by section 60-3,186.

(2) This subsection applies beginning on an implementation date designated by the director. The director shall designate an implementation date which is on or before January 1, 2020. In addition to the information required under subsection (1) of this section, the application for registration shall contain (a) the full legal name as defined in section 60-468.01 of each owner and (b)(i) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (ii) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

Source: Laws 2005, LB 274, § 86; Laws 2011, LB289, § 17; Laws 2012, LB801, § 58; Laws 2013, LB207, § 1; Laws 2015, LB642, § 4; Laws 2016, LB929, § 3; Laws 2017, LB263, § 31; Laws 2018, LB909, § 55.

Effective date April 12, 2018.

60-387.01 Evidence of insurance; display as electronic image.

Evidence of insurance may be displayed as an electronic image on an electronic device. If a person displays evidence of insurance on an electronic

device, the person is not consenting for law enforcement to access other contents of the device. Whenever a person presents an electronic device for purposes of evidence of insurance, the person presenting the electronic device assumes liability for any damage to the device.

Source: Laws 2014, LB816, § 3.

60-388 Collection of taxes and fees required.

No county treasurer shall receive or accept an application or registration fee or issue any registration certificate for any motor vehicle or trailer without collection of the taxes and the fees imposed in sections 60-3,185, 60-3,190, and 77-2703 and any other applicable taxes and fees upon such motor vehicle or trailer. If applicable, the applicant shall furnish proof of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by the Internal Revenue Code, 26 U.S.C. 4481.

Source: Laws 2005, LB 274, § 88; Laws 2012, LB801, § 59.

60-389 Registration number; trailer identification tags; assignment.

Upon the filing of such application, the department shall, upon registration, assign to such motor vehicle or trailer a distinctive registration number in the form of a license plate. Beginning on the implementation date designated by the director pursuant to subsection (4) of section 60-1508, for trailers which are not required to have a certificate of title under section 60-137 and which have an identification number issued by the county treasurer or department under section 60-386, trailer identification tags shall be supplied by the department and shall be required to be affixed to the trailer after issuance. Upon sale or transfer of any such motor vehicle or trailer, such number may be canceled or may be reassigned to another motor vehicle or trailer, at the option of the department, subject to the provisions of the Motor Vehicle Registration Act.

Source: Laws 2005, LB 274, § 89; Laws 2018, LB909, § 56.
Effective date April 12, 2018.

60-391 Combined certificate and receipt for fees; county treasurer; report; contents.

The county treasurer shall issue a combined certificate and receipt for all fees received for the registration of motor vehicles or trailers to the applicant for registration and forward an electronic copy of the combined application and receipt to the department in a form prescribed by the department. Each county treasurer shall make a report to the department of the number of original registrations of motor vehicles or trailers registered in the rural areas of the county and of the number of original registrations of motor vehicles or trailers registered in each incorporated city and village in the county during each month, on or before the twenty-fifth day of the succeeding month. The department shall prescribe the form of such report. When any county treasurer fails to file such report, the department shall notify the county board of such county and the Director of Administrative Services who shall immediately suspend any payments to such county for highway purposes until the required reports are submitted.

Source: Laws 2005, LB 274, § 91; Laws 2012, LB801, § 60.

60-393 Multiple vehicle registration.

Any owner who has two or more motor vehicles or trailers required to be registered under the Motor Vehicle Registration Act may register all such motor vehicles or trailers on a calendar-year basis or on an annual basis for the same registration period beginning in a month chosen by the owner. When electing to establish the same registration period for all such motor vehicles or trailers, the owner shall pay the registration fee, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191 on each motor vehicle for the number of months necessary to extend its current registration period to the registration period under which all such motor vehicles or trailers will be registered. Credit shall be given for registration paid on each motor vehicle or trailer when the motor vehicle or trailer has a later expiration date than that chosen by the owner except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, and 60-3,235. Thereafter all such motor vehicles or trailers shall be registered on an annual basis starting in the month chosen by the owner.

Source: Laws 2005, LB 274, § 93; Laws 2007, LB570, § 4; Laws 2011, LB289, § 18; Laws 2014, LB383, § 2; Laws 2015, LB220, § 2; Laws 2016, LB474, § 4; Laws 2017, LB46, § 2; Laws 2017, LB263, § 32.

60-394 Registration; certain name and address changes; fee.

(1) Registration which is in the name of one spouse may be transferred to the other spouse for a fee of one dollar and fifty cents.

(2) So long as one registered name on a registration of a noncommercial motor vehicle or trailer remains the same, other names may be deleted therefrom or new names added thereto for a fee of one dollar and fifty cents.

(3) At any time prior to annual renewal beginning January 1, 2019, an owner may voluntarily update his or her address on the registration certificate upon payment of a fee of one dollar and fifty cents.

Source: Laws 2005, LB 274, § 94; Laws 2017, LB263, § 33.

60-395 Refund or credit of fees; when authorized.

(1) Except as otherwise provided in subsection (2) of this section and sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,231, 60-3,233, and 60-3,235, the registration shall expire and the registered owner or lessee may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals and by either making application on a form prescribed by the department to the county treasurer of the occurrence of an event described in subdivisions (a) through (e) of this subsection or, in the case of a change in situs, displaying to the county treasurer the registration certificate of such other state as evidence of a change in situs, receive a refund of that part of the unused fees and taxes on motor vehicles or trailers based on the number of unexpired months remaining in the registration period from the date of any of the following events:

(a) Upon transfer of ownership of any motor vehicle or trailer;

(b) In case of loss of possession because of fire, theft, dismantlement, or junking;

(c) When a salvage branded certificate of title is issued;

(d) Whenever a type or class of motor vehicle or trailer previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees, the motor vehicle tax imposed in section 60-3,185, the motor vehicle fee imposed in section 60-3,190, and the alternative fuel fee imposed in section 60-3,191;

(e) Upon a trade-in or surrender of a motor vehicle under a lease; or

(f) In case of a change in the situs of a motor vehicle or trailer to a location outside of this state.

(2) If the date of the event falls within the same calendar month in which the motor vehicle or trailer is acquired, no refund shall be allowed for such month.

(3) If the transferor or lessee acquires another motor vehicle at the time of the transfer, trade-in, or surrender, the transferor or lessee shall have the credit provided for in this section applied toward payment of the motor vehicle fees and taxes then owing. Otherwise, the transferor or lessee shall file a claim for refund with the county treasurer upon an application form prescribed by the department.

(4) The registered owner or lessee shall make a claim for refund or credit of the fees and taxes for the unexpired months in the registration period within sixty days after the date of the event or shall be deemed to have forfeited his or her right to such refund or credit.

(5) For purposes of this section, the date of the event shall be: (a) In the case of a transfer or loss, the date of the transfer or loss; (b) in the case of a change in the situs, the date of registration in another state; (c) in the case of a trade-in or surrender under a lease, the date of trade-in or surrender; (d) in the case of a legislative act, the effective date of the act; and (e) in the case of a court decision, the date the decision is rendered.

(6) Application for registration or for reassignment of license plates and, when appropriate, validation decals to another motor vehicle or trailer shall be made within thirty days of the date of purchase.

(7) If a motor vehicle or trailer was reported stolen under section 60-178, a refund under this section shall not be reduced for a lost plate charge and a credit under this section may be reduced for a lost plate charge but the applicant shall not be required to pay the plate fee for new plates.

(8) The county treasurer shall refund the motor vehicle fee and registration fee from the fees which have not been transferred to the State Treasurer. The county treasurer shall make payment to the claimant from the undistributed motor vehicle taxes of the taxing unit where the tax money was originally distributed. No refund of less than two dollars shall be paid.

Source: Laws 2005, LB 274, § 95; Laws 2007, LB286, § 35; Laws 2007, LB570, § 5; Laws 2009, LB175, § 1; Laws 2011, LB289, § 19; Laws 2012, LB801, § 61; Laws 2014, LB383, § 3; Laws 2015, LB220, § 3; Laws 2016, LB474, § 5; Laws 2017, LB46, § 3; Laws 2017, LB263, § 34; Laws 2018, LB909, § 57.
Effective date April 12, 2018.

60-396 Credit of fees; vehicle disabled or removed from service.

Whenever the registered owner files an application with the county treasurer showing that a motor vehicle or trailer is disabled and has been removed from service, the registered owner may, by returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of such registration certificate or certificates, license plates, or validation decals, then by making an affidavit to the county treasurer of such disablement and removal from service, receive a credit for a portion of the registration fee from the fee deposited with the State Treasurer at the time of registration based upon the number of unexpired months remaining in the registration year except as otherwise provided in sections 60-3,121, 60-3,122.02, 60-3,122.04, 60-3,128, 60-3,224, 60-3,227, 60-3,233, and 60-3,235. The owner shall also receive a credit for the unused portion of the motor vehicle tax and fee based upon the number of unexpired months remaining in the registration year. When the owner registers a replacement motor vehicle or trailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle or trailer. When no such replacement motor vehicle or trailer is so registered, the county treasurer shall forward the application and affidavit, if any, to the State Treasurer who shall determine the amount, if any, of the allowable credit for the registration fee and issue a credit certificate to the owner. For the motor vehicle tax and fee, the county treasurer shall determine the amount, if any, of the allowable credit and issue a credit certificate to the owner. When such motor vehicle or trailer is removed from service within the same month in which it was registered, no credits shall be allowed for such month. The credits may be applied against taxes and fees for new or replacement motor vehicles or trailers incurred within one year after cancellation of registration of the motor vehicle or trailer for which the credits were allowed. When any such motor vehicle or trailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 96; Laws 2007, LB570, § 6; Laws 2012, LB801, § 62; Laws 2014, LB383, § 4; Laws 2015, LB220, § 4; Laws 2016, LB474, § 6; Laws 2017, LB46, § 4; Laws 2017, LB263, § 35.

60-397 Refund or credit; salvage branded certificate of title.

If a motor vehicle or trailer has a salvage branded certificate of title issued as a result of an insurance company acquiring the motor vehicle or trailer through a total loss settlement, the prior owner of the motor vehicle or trailer who is a party to the settlement may receive a refund or credit of unused fees and taxes by (1) filing an application with the county treasurer within sixty days after the date of the settlement stating that title to the motor vehicle or trailer was transferred as a result of the settlement and (2) returning the registration certificate, the license plates, and, when appropriate, the validation decals or, in the case of the unavailability of the registration certificate, license plates, or validation decals, filing an affidavit with the county treasurer regarding the transfer of title due to the settlement and the unavailability of the certificate, license plates, or validation decals. The owner may receive a refund or credit of the registration fees and motor vehicle taxes and fees for the unexpired months remaining in the registration year determined based on the date when the

motor vehicle or trailer was damaged and became unavailable for service. When the owner registers a replacement motor vehicle or trailer at the time of filing such affidavit, the credit may be immediately applied against the registration fee and the motor vehicle tax and fee for the replacement motor vehicle or trailer. When no such replacement motor vehicle or trailer is so registered, the county treasurer shall refund the unused registration fees. If the motor vehicle or trailer was damaged and became unavailable for service during the same month in which it was registered, no refund or credit shall be allowed for such month. When any such motor vehicle or trailer is reregistered within the same registration year in which its registration has been canceled, the taxes and fees shall be that portion of the registration fee and the motor vehicle tax and fee for the remainder of the registration year.

Source: Laws 2005, LB 274, § 97; Laws 2007, LB286, § 36; Laws 2012, LB801, § 63.

60-398 Nonresident; refund; when allowed.

A nonresident may, if he or she applies within ninety days from his or her original registration date and surrenders the registration certificate and license plates which were assigned to him or her, receive from the county treasurer, or the department if registration was pursuant to section 60-3,198, a refund in the amount of fifty percent of the original license fee, fifty percent of the motor vehicle tax imposed in section 60-3,185, and fifty percent of the motor vehicle fee imposed in section 60-3,190, except that no refunds shall be made on any license surrendered after the ninth month of the registration period for which the motor vehicle or trailer was registered.

Source: Laws 2005, LB 274, § 98; Laws 2012, LB801, § 64.

60-3,100 License plates; issuance; license decal; display; additional registration fee.

(1) The department shall issue to every person whose motor vehicle or trailer is registered one or two fully reflectorized license plates upon which shall be displayed (a) the registration number consisting of letters and numerals assigned to such motor vehicle or trailer in figures not less than two and one-half inches nor more than three inches in height and (b) also the word Nebraska suitably lettered so as to be attractive. The license plates shall be of a color designated by the director. The color of the plates shall be changed each time the license plates are changed. Each time the license plates are changed, the director shall secure competitive bids for materials pursuant to sections 81-145 to 81-162. Autocycle, motorcycle, minitruck, low-speed vehicle, and trailer license plate letters and numerals may be one-half the size of those required in this section.

(2)(a) Except as otherwise provided in this subsection, two license plates shall be issued for every motor vehicle.

(b) One license plate shall be issued for (i) apportionable vehicles, (ii) buses, (iii) dealers, (iv) minitrucks, (v) motorcycles, other than autocycles, (vi) special interest motor vehicles that use the special interest motor vehicle license plate authorized by and issued under section 60-3,135.01, (vii) trailers, and (viii) truck-tractors.

(c)(i) Beginning January 1, 2017, one license plate shall be issued, upon request and compliance with this subdivision, for any passenger car which is

not manufactured to be equipped with a bracket on the front of the vehicle to display a license plate. A license decal shall be issued with the license plate as provided in subdivision (ii) of this subdivision and shall be displayed on the driver's side of the windshield. In order to request a single license plate and license decal, there shall be an additional annual nonrefundable registration fee of one hundred dollars plus the cost of the decal paid to the county treasurer at the time of registration. All fees collected under this subdivision shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(ii) The department shall design, procure, and furnish to the county treasurers a license decal which shall be displayed as evidence that a license plate has been obtained under this subdivision. Each county treasurer shall furnish a license decal to the person obtaining the plate.

(d) When two license plates are issued, one shall be prominently displayed at all times on the front and one on the rear of the registered motor vehicle or trailer. When only one plate is issued, it shall be prominently displayed on the rear of the registered motor vehicle or trailer. When only one plate is issued for motor vehicles registered pursuant to section 60-3,198 and truck-tractors, it shall be prominently displayed on the front of the apportionable vehicle.

Source: Laws 2005, LB 274, § 100; Laws 2010, LB650, § 25; Laws 2011, LB289, § 20; Laws 2012, LB216, § 2; Laws 2015, LB231, § 11; Laws 2016, LB53, § 1; Laws 2018, LB909, § 58.
Effective date April 12, 2018.

60-3,101 License plates; when issued; validation decals.

Except for license plates issued pursuant to sections 60-3,203 and 60-3,228, license plates shall be issued every six years beginning with the license plates issued in the year 2005. Except for plates issued pursuant to such sections, in the years in which plates are not issued, in lieu of issuing such license plates, the department shall furnish to every person whose motor vehicle or trailer is registered one or two validation decals, as the case may be, which validation decals shall bear the year for which issued and be so constructed as to permit them to be permanently affixed to the plates.

Source: Laws 2005, LB 274, § 101; Laws 2016, LB783, § 6.

60-3,104 Types of license plates.

The department shall issue the following types of license plates:

- (1) Amateur radio station license plates issued pursuant to section 60-3,126;
- (2) Apportionable vehicle license plates issued pursuant to section 60-3,203;
- (3) Autocycle license plates issued pursuant to section 60-3,100;
- (4) Boat dealer license plates issued pursuant to section 60-379;
- (5) Breast Cancer Awareness Plates issued pursuant to sections 60-3,230 and 60-3,231;
- (6) Bus license plates issued pursuant to section 60-3,144;
- (7) Choose Life License Plates issued pursuant to sections 60-3,232 and 60-3,233;
- (8) Commercial motor vehicle license plates issued pursuant to section 60-3,147;

- (9) Dealer or manufacturer license plates issued pursuant to sections 60-3,114 and 60-3,115;
- (10) Disabled veteran license plates issued pursuant to section 60-3,124;
- (11) Farm trailer license plates issued pursuant to section 60-3,151;
- (12) Farm truck license plates issued pursuant to section 60-3,146;
- (13) Farm trucks with a gross weight of over sixteen tons license plates issued pursuant to section 60-3,146;
- (14) Fertilizer trailer license plates issued pursuant to section 60-3,151;
- (15) Gold Star Family license plates issued pursuant to sections 60-3,122.01 and 60-3,122.02;
- (16) Handicapped or disabled person license plates issued pursuant to section 60-3,113;
- (17) Historical vehicle license plates issued pursuant to sections 60-3,130 to 60-3,134;
- (18) Local truck license plates issued pursuant to section 60-3,145;
- (19) Metropolitan utilities district license plates issued pursuant to section 60-3,228;
- (20) Military Honor Plates issued pursuant to sections 60-3,122.03 and 60-3,122.04;
- (21) Minitruck license plates issued pursuant to section 60-3,100;
- (22) Motor vehicle license plates for motor vehicles owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,105;
- (23) Motor vehicles exempt pursuant to section 60-3,107;
- (24) Motorcycle license plates issued pursuant to section 60-3,100;
- (25) Mountain Lion Conservation Plates issued pursuant to sections 60-3,226 and 60-3,227;
- (26) Native American Cultural Awareness and History Plates issued pursuant to sections 60-3,234 and 60-3,235;
- (27) Nebraska Cornhusker Spirit Plates issued pursuant to sections 60-3,127 to 60-3,129;
- (28) Nebraska 150 Sesquicentennial Plates issued pursuant to sections 60-3,223 to 60-3,225;
- (29) Nonresident owner thirty-day license plates issued pursuant to section 60-382;
- (30) Passenger car having a seating capacity of ten persons or less and not used for hire issued pursuant to section 60-3,143 other than autocycles;
- (31) Passenger car having a seating capacity of ten persons or less and used for hire issued pursuant to section 60-3,143 other than autocycles;
- (32) Pearl Harbor license plates issued pursuant to section 60-3,122;
- (33) Personal-use dealer license plates issued pursuant to section 60-3,116;
- (34) Personalized message license plates for motor vehicles, trailers, and semitrailers, except motor vehicles, trailers, and semitrailers registered under section 60-3,198, issued pursuant to sections 60-3,118 to 60-3,121;
- (35) Prisoner-of-war license plates issued pursuant to section 60-3,123;

- (36) Public power district license plates issued pursuant to section 60-3,228;
- (37) Purple Heart license plates issued pursuant to section 60-3,125;
- (38) Recreational vehicle license plates issued pursuant to section 60-3,151;
- (39) Repossession license plates issued pursuant to section 60-375;
- (40) Special interest motor vehicle license plates issued pursuant to section 60-3,135.01;
- (41) Specialty license plates issued pursuant to sections 60-3,104.01 and 60-3,104.02;
- (42) Trailer license plates issued for trailers owned or operated by the state, counties, municipalities, or school districts issued pursuant to section 60-3,106;
- (43) Trailer license plates issued pursuant to section 60-3,100;
- (44) Trailer license plates issued for trailers owned or operated by a metropolitan utilities district or public power district pursuant to section 60-3,228;
- (45) Trailers exempt pursuant to section 60-3,108;
- (46) Transporter license plates issued pursuant to section 60-378;
- (47) Trucks or combinations of trucks, truck-tractors, or trailers which are not for hire and engaged in soil and water conservation work and used for the purpose of transporting pipe and equipment exclusively used by such contractors for soil and water conservation construction license plates issued pursuant to section 60-3,149;
- (48) Utility trailer license plates issued pursuant to section 60-3,151; and
- (49) Well-boring apparatus and well-servicing equipment license plates issued pursuant to section 60-3,109.

Source: Laws 2005, LB 274, § 104; Laws 2006, LB 663, § 23; Laws 2007, LB286, § 37; Laws 2007, LB570, § 7; Laws 2009, LB110, § 2; Laws 2010, LB650, § 26; Laws 2012, LB216, § 3; Laws 2014, LB383, § 5; Laws 2015, LB45, § 2; Laws 2015, LB220, § 5; Laws 2015, LB231, § 12; Laws 2016, LB474, § 7; Laws 2016, LB783, § 7; Laws 2016, LB977, § 6; Laws 2017, LB46, § 5; Laws 2017, LB263, § 36; Laws 2018, LB909, § 59.
Effective date April 12, 2018.

60-3,104.01 Specialty license plates; application; fee; delivery; transfer; credit allowed; fee.

(1) A person may apply for specialty license plates in lieu of regular license plates on an application prescribed and provided by the department pursuant to section 60-3,104.02 for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a specialty license plate for a farm truck with a gross weight of over sixteen tons or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications. Each application for initial issuance or renewal of specialty license plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of specialty license plates to the Department of Motor Vehicles Cash Fund and eighty-five percent of the fee to the Highway Trust Fund.

(2) Until January 1, 2019, when the department receives an application for specialty license plates, it shall deliver the plates to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered. Beginning January 1, 2019, when the department receives an application for specialty license plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue specialty license plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle, trailer, or semitrailer. If specialty license plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(3)(a) The owner of a motor vehicle, trailer, or semitrailer bearing specialty license plates may make application to the county treasurer to have such specialty license plates transferred to a motor vehicle, trailer, or semitrailer other than the motor vehicle, trailer, or semitrailer for which such plates were originally purchased if such motor vehicle, trailer, or semitrailer is owned by the owner of the specialty license plates.

(b) The owner may have the unused portion of the specialty license plate fee credited to the other motor vehicle, trailer, or semitrailer which will bear the specialty license plates at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2009, LB110, § 3; Laws 2012, LB801, § 65; Laws 2017, LB263, § 37.

60-3,104.02 Specialty license plates; organization; requirements; design of plates.

(1) The department shall issue specialty license plates for any organization which certifies that it meets the requirements of this section. The department shall work with the organization to design the plates.

(2) The department shall make applications available pursuant to section 60-3,104.01 for each type of specialty license plate when it is designed. The department shall not manufacture specialty license plates for an organization until the department has received two hundred fifty prepaid applications for specialty license plates designed for that organization. The department may revoke the approval for an organization's specialty license plate if the total number of registered vehicles that obtained such plate is less than two hundred fifty within three years after receiving approval.

(3) In order to have specialty license plates designed and manufactured, an organization shall furnish the department with the following:

(a) A copy of its articles of incorporation and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(b) A copy of its charter or bylaws and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(c) Any Internal Revenue Service rulings of the organization's nonprofit tax-exempt status and, if the organization consists of a group of nonprofit corporations, a copy for each organization;

(d) A copy of a certificate of existence on file with the Secretary of State under the Nebraska Nonprofit Corporation Act;

(e) Two hundred fifty prepaid applications for the specialty license plates; and

(f) A completed application for the issuance of the plates on a form provided by the department certifying that the organization meets the following requirements:

(i) The organization is a nonprofit corporation or a group of nonprofit corporations with a common purpose;

(ii) The primary activity or purpose of the organization serves the community, contributes to the welfare of others, and is not offensive or discriminatory in its purpose, nature, activity, or name;

(iii) The name and purpose of the organization does not promote any specific product or brand name that is on a product provided for sale;

(iv) The organization is authorized to use any name, logo, or graphic design suggested for the design of the plates;

(v) No infringement or violation of any property right will result from such use of such name, logo, or graphic design; and

(vi) The organization will hold harmless the State of Nebraska and its employees and agents for any liability which may result from any infringement or violation of a property right based on the use of such name, logo, or graphic design.

(4) The department may adopt and promulgate rules and regulations to carry out this section.

Source: Laws 2009, LB110, § 4; Laws 2016, LB977, § 7.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

60-3,109 Well-boring apparatus and well-servicing equipment license plates.

(1) Any owner of well-boring apparatus and well-servicing equipment may make application to the county treasurer for license plates.

(2) Well-boring apparatus and well-servicing equipment license plates shall display thereon, in addition to the license number, the words special equipment.

Source: Laws 2005, LB 274, § 109; Laws 2012, LB801, § 66.

60-3,111 Farmers and ranchers; special permits; fee.

Special permits may be supplied by the department and issued by the county treasurer for truck-tractor and semitrailer combinations of farmers or ranchers used wholly and exclusively to carry their own supplies, farm equipment, and household goods to or from the owner's farm or ranch or used by the farmer or rancher to carry his or her own agricultural products to or from storage or market. Such special permits shall be valid for periods of thirty days and shall be carried in the cab of the truck-tractor. The fee for such permit shall be equivalent to one-twelfth of the regular commercial registration fee as deter-

mined by gross vehicle weight and size limitations as defined in sections 60-6,288 to 60-6,294, but the fee shall be no less than twenty-five dollars. Such fee shall be collected and distributed in the same manner as other motor vehicle fees.

Source: Laws 2005, LB 274, § 111; Laws 2012, LB801, § 67.

60-3,112 Nonresident licensed vehicle hauling grain or seasonally harvested products; permit; fee.

If a truck, truck-tractor, or trailer is lawfully licensed under the laws of another state or province and is engaged in hauling grain or other seasonally harvested products from the field where they are harvested to storage or market during the period from June 1 to December 15 of each year or under emergency conditions, the right to operate over the highways of this state for a period of ninety days shall be authorized by obtaining a permit therefor from the county treasurer or his or her agent of the county in which grain is first hauled. Such permit shall be issued electronically upon the payment of a fee of twenty dollars for a truck or one hundred fifty dollars for any combination of truck, truck-tractor, or trailer. The fees for such permits, when collected, shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 112; Laws 2012, LB801, § 68.

60-3,113 Handicapped or disabled person; plates; department; compile and maintain registry.

(1) The department shall, without the payment of any fee except the taxes and fees required by sections 60-3,102, 60-3,185, 60-3,190, and 60-3,191, issue license plates for one motor vehicle not used for hire and a license plate for one auticycle or motorcycle not used for hire to:

(a) Any permanently handicapped or disabled person or his or her parent, legal guardian, foster parent, or agent upon application and proof of a permanent handicap or disability; or

(b) A trust which owns the motor vehicle, auticycle, or motorcycle if a designated beneficiary of the trust qualifies under subdivision (a) of this subsection.

An application and proof of disability in the form and with the information required by section 60-3,113.02 shall be submitted before license plates are issued or reissued.

(2) The license plate or 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 prescribes. Such license plate or plates shall be used by such person in lieu of the usual license plate or plates.

(3) The department shall compile and maintain a registry of the names, addresses, and license numbers of all persons who obtain special license plates pursuant to this section and all persons who obtain a handicapped or disabled parking permit.

Source: Laws 2005, LB 274, § 113; Laws 2011, LB163, § 22; Laws 2011, LB289, § 21; Laws 2014, LB657, § 4; Laws 2015, LB231, § 13.

60-3,113.01 Handicapped or disabled person; parking permits; electronic system; department; duties.

The department shall develop, implement, and maintain an electronic system for accepting and processing applications for handicapped or disabled parking permits.

Source: Laws 2011, LB163, § 23; Laws 2014, LB657, § 5.

60-3,113.02 Handicapped or disabled person; parking permit; issuance; procedure; renewal; notice; identification card.

(1) A handicapped or disabled person or temporarily handicapped or disabled person or his or her parent, legal guardian, foster parent, or certifying health care provider may apply for a handicapped or disabled parking permit to the department or through a health care provider using a secure online process developed by the department which will entitle the holder of a permit or a person driving a motor vehicle for the purpose of transporting such holder to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 when the holder of the permit will enter or exit the motor vehicle while it is parked in such spaces or access aisles. For purposes of this section, (a) the handicapped or disabled person or temporarily handicapped or disabled person is considered the holder of the permit and (b) certifying health care provider means the physician, physician assistant, or advanced practice registered nurse who makes the certification required in subsection (2) of this section or his or her designee.

(2) The application process for a handicapped or disabled parking permit or for the renewal of a permit under this section shall include presentation of proof of identity by the handicapped or disabled person or temporarily handicapped or disabled person and certification by a physician, a physician assistant, or an advanced practice registered nurse practicing under and in accordance with his or her certification act that the person who will be the holder meets the statutory criteria for qualification. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit. No applicant shall be required to provide his or her social security number. In the case of a temporarily handicapped or disabled person, the certifying physician, physician assistant, or advanced practice registered nurse shall recommend that the permit for the temporarily handicapped or disabled person be issued for either a three-month period or a six-month period, with such recommendation to be based on the estimated date of recovery.

(3) The department, upon receipt of a completed application for a handicapped or disabled parking permit under this section, shall verify that the applicant qualifies for such permit and, if so, shall deliver the permit to the applicant. In issuing a renewal of a permit, the department shall deliver a new expiration sticker to the applicant to be affixed to the existing permit. Such renewal sticker shall not be issued sooner than ten days prior to the date of expiration of the existing permit. A person may hold up to two permits under this section. If a person holds a permit under this section, such person may not hold a permit under section 60-3,113.03.

(4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card. The notice shall contain information listing the legal uses of the permit and that the permit

is not transferable, is to be used by the party to whom issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall show the expiration date of the permit and such identifying information with regard to the handicapped or disabled person or temporarily handicapped or disabled person to whom the permit is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Source: Laws 2011, LB163, § 24; Laws 2013, LB31, § 1; Laws 2014, LB657, § 6; Laws 2018, LB909, § 60.
Effective date April 12, 2018.

60-3,113.03 Handicapped or disabled person; parking permit; permit for specific motor vehicle; application; issuance; procedure; renewal; notice; identification card.

(1) The department shall take an application from any person for a handicapped or disabled parking permit that is issued for a specific motor vehicle and entitles the holder thereof or a person driving the motor vehicle for the purpose of transporting handicapped or disabled persons or temporarily handicapped or disabled persons to park in those spaces or access aisles provided for by sections 18-1736 and 18-1737 if the motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. Such permit shall be used only when the motor vehicle for which it was issued is being used for the transportation of a handicapped or disabled person or temporarily handicapped or disabled person and such person will enter or exit the motor vehicle while it is parked in such designated spaces or access aisles.

(2) A person applying for a handicapped or disabled parking permit or for the renewal of a permit pursuant to this section shall apply for a permit for each motor vehicle used for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons and shall include such information as is required by the department, including a demonstration to the department that each such motor vehicle is used primarily for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons. An application for the renewal of a permit under this section may be submitted within one hundred eighty days prior to the expiration of the permit.

(3) The department, upon receipt of a completed application, shall verify that the applicant qualifies for a handicapped or disabled parking permit under this section and, if so, shall deliver the permit to the applicant. In issuing renewed permits, the department shall deliver each individual renewal to the applicant as provided in section 60-3,113.02. The renewed permit shall not be issued sooner than ten days prior to the date of expiration, and the existing permit shall be invalid upon receipt of the renewed permit. No more than one such permit shall be issued for each motor vehicle under this section.

(4) In issuing any handicapped or disabled parking permit under this section, the department shall include a notice and an identification card to the regis-

tered owner of the motor vehicle or the applicant. The notice shall contain information listing the legal uses of the permit and that the permit is not transferable, is to be used for the motor vehicle for which it is issued, is not to be altered or reproduced, and is to be used only when a handicapped or disabled person or a temporarily handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated parking space or access aisle. The notice shall also indicate that those convicted of handicapped parking infractions shall be subject to suspension of the permit for six months. The identification card shall identify the motor vehicle for which the permit is issued as is necessary to the enforcement of sections 18-1736 to 18-1741.07 as determined by the department.

Source: Laws 2011, LB163, § 25; Laws 2014, LB657, § 7; Laws 2018, LB909, § 61.
Effective date April 12, 2018.

60-3,113.04 Handicapped or disabled person; parking permit; contents; issuance; duplicate permit.

(1) A handicapped or disabled parking permit shall be of a design, size, configuration, color, and construction and contain such information as specified in the regulations adopted by the United States Department of Transportation in 23 C.F.R. part 1235, UNIFORM SYSTEM FOR PARKING FOR PERSONS WITH DISABILITIES, as such regulations existed on January 1, 2018.

(2) No handicapped or disabled parking permit shall be issued to any person or for any motor vehicle if any permit has been issued to such person or for such motor vehicle and such permit has been suspended pursuant to section 18-1741.02. At the expiration of such suspension, a permit may be renewed in the manner provided for renewal in sections 60-3,113.02, 60-3,113.03, and 60-3,113.05.

(3) A duplicate handicapped or disabled parking permit may be provided up to two times during any single permit period if a permit is destroyed, lost, or stolen. Such duplicate permit shall be issued as provided in section 60-3,113.02 or 60-3,113.03, whichever is applicable, except that a new certification by a physician, a physician assistant, or an advanced practice registered nurse need not be provided. A duplicate permit shall be valid for the remainder of the period for which the original permit was issued. If a person has been issued two duplicate permits under this subsection and needs another permit, such person shall reapply for a new permit under section 60-3,113.02 or 60-3,113.03, whichever is applicable.

Source: Laws 2011, LB163, § 26; Laws 2012, LB751, § 13; Laws 2013, LB35, § 1; Laws 2014, LB657, § 8; Laws 2014, LB776, § 2; Laws 2015, LB313, § 2; Laws 2016, LB929, § 4; Laws 2017, LB263, § 38; Laws 2018, LB909, § 62.
Effective date April 12, 2018.

60-3,113.05 Handicapped or disabled persons; parking permit; expiration date; permit for temporarily handicapped or disabled person; period valid; renewal.

(1) Permanently issued handicapped or disabled parking permits shall be valid for a period ending on the last day of the month of the applicant's birthday in the sixth year after issuance and shall expire on that day.

(2) All handicapped or disabled parking permits for temporarily handicapped or disabled persons shall be issued for a period ending either three months after the date of issuance or six months after the date of issuance, with such period to be based on the estimated date of recovery, but such permit may be renewed one time for a similar three-month or six-month period. For the renewal period, there shall be submitted an additional application with proof of a handicap or disability.

Source: Laws 2011, LB163, § 27; Laws 2013, LB31, § 2; Laws 2014, LB657, § 9; Laws 2016, LB865, § 2.

60-3,113.06 Handicapped or disabled persons; parking permit; use; display; prohibited acts; violation; penalty.

A handicapped or disabled parking permit shall not be transferable and shall be used only by the party to whom issued or for the motor vehicle for which issued and only for the purpose for which the permit is issued. A handicapped or disabled parking permit shall be displayed by hanging the permit from the motor vehicle's rearview mirror so as to be clearly visible through the front windshield. A handicapped or disabled parking permit shall be displayed on the dashboard only when there is no rearview mirror. No person shall alter or reproduce in any manner a handicapped or disabled parking permit. No person shall knowingly hold more than the allowed number of handicapped or disabled parking permits. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.02 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the holder of the permit will enter or exit the motor vehicle while it is parked in a designated space or access aisle. No person shall display a handicapped or disabled parking permit issued under section 60-3,113.03 and park in a space or access aisle designated for the exclusive use of a handicapped or disabled person unless the person displaying the permit is driving the motor vehicle for which the permit was issued and a handicapped or disabled person will enter or exit the motor vehicle while it is parked in a designated space or access aisle. Any violation of this section shall constitute a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07.

Source: Laws 2011, LB163, § 28; Laws 2014, LB657, § 10.

60-3,113.07 Handicapped or disabled persons; parking permit; prohibited acts; violation; penalty; powers of director.

(1) No person shall knowingly provide false information on an application for a handicapped or disabled parking permit. Any person who violates this subsection shall be guilty of a Class III misdemeanor.

(2) If the director discovers evidence of fraud in an application for a handicapped or disabled parking permit or a license plate issued under section 60-3,113, the director may summarily cancel such permit or license plate and send notice of cancellation to the applicant.

Source: Laws 2011, LB163, § 29; Laws 2014, LB657, § 11.

60-3,113.08 Handicapped or disabled persons; parking permit; rules and regulations.

The department may adopt and promulgate rules and regulations necessary to fulfill any duties and obligations as provided in sections 60-3,113.01 to 60-3,113.08. All rules and regulations of the department relating to the issuance and use of handicapped or disabled parking permits adopted and promulgated prior to July 18, 2014, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Source: Laws 2011, LB163, § 30; Laws 2014, LB657, § 12.

60-3,114 Dealer or manufacturer license plates; fee.

(1) Any licensed dealer or manufacturer may, upon payment of a fee of thirty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his or her place of business is located for a certificate and one dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. One additional dealer license plate may be procured for the type of motor vehicle or trailer the dealer has sold during the last previous period of October 1 through September 30 for each twenty motor vehicles or trailers sold at retail during such period or one additional dealer license plate for each thirty motor vehicles or trailers sold at wholesale during such period, but not to exceed a total of five additional dealer license plates in the case of motor vehicles or trailers sold at wholesale, or, in the case of a manufacturer, for each ten motor vehicles or trailers actually manufactured or assembled within the state within the last previous period of October 1 through September 30 for a fee of fifteen dollars each.

(2) Dealer or manufacturer license plates shall display, in addition to the registration number, the letters DLR.

Source: Laws 2005, LB 274, § 114; Laws 2012, LB801, § 69.

60-3,115 Additional dealer license plates; unauthorized use; hearing.

When an applicant applies for a license, the Nebraska Motor Vehicle Industry Licensing Board may authorize the county treasurer to issue additional dealer license plates when the dealer or manufacturer furnishes satisfactory proof for a need of additional dealer license plates because of special condition or hardship. In the case of unauthorized use of dealer license plates by any licensed dealer, the Nebraska Motor Vehicle Industry Licensing Board may hold a hearing and after such hearing may determine that such dealer is not qualified for continued usage of such dealer license plates for a set period not to exceed one year.

Source: Laws 2005, LB 274, § 115; Laws 2012, LB801, § 70.

60-3,116 Personal-use dealer license plates; fee.

(1) Any licensed dealer or manufacturer may, upon payment of an annual fee of two hundred fifty dollars, make an application, on a form approved by the Nebraska Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his or her place of business is located for a certificate and one personal-use dealer license plate for the type of motor vehicle or trailer the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. Additional personal-use dealer license plates may be procured upon payment of an annual fee of two hundred fifty dollars

each, subject to the same limitations as provided in section 60-3,114 as to the number of additional dealer license plates. A personal-use dealer license plate may be displayed on a motor vehicle having a gross weight including any load of six thousand pounds or less belonging to the dealer, may be used in the same manner as a dealer license plate, and may be used for personal or private use of the dealer, the dealer's immediate family, or any bona fide employee of the dealer.

(2) Personal-use dealer license plates shall have the same design and shall be displayed as provided in sections 60-370 and 60-3,100.

Source: Laws 2005, LB 274, § 116; Laws 2010, LB816, § 11; Laws 2012, LB801, § 71; Laws 2017, LB346, § 2.

60-3,118 Personalized message license plates; conditions.

(1) In lieu of the license plates provided for by section 60-3,100, the department shall issue personalized message license plates for motor vehicles, trailers, or semitrailers, except for motor vehicles and trailers registered under section 60-3,198, to all applicants who meet the requirements of sections 60-3,119 to 60-3,121. Personalized message license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100. The characters used shall consist only of letters and numerals of the same size and design and shall comply with the requirements of subdivision (1)(a) of section 60-3,100. A maximum of seven characters may be used, except that for an autocycle or a motorcycle, a maximum of six characters may be used.

(2) The following conditions apply to all personalized message license plates:

(a) County prefixes shall not be allowed except in counties using the alphanumeric system for motor vehicle registration. The numerals in the county prefix shall be the numerals assigned to the county, pursuant to subsection (2) of section 60-370, in which the motor vehicle or trailer is registered. Renewal of a personalized message license plate containing a county prefix shall be conditioned upon the motor vehicle or trailer being registered in such county. The numerals in the county prefix, including the hyphen or any other unique design for an existing license plate style, count against the maximum number of characters allowed under this section;

(b) The characters in the order used shall not conflict with or duplicate any number used or to be used on the regular license plates or any number or license plate already approved pursuant to sections 60-3,118 to 60-3,121;

(c) The characters in the order used shall not express, connote, or imply any obscene or objectionable words or abbreviations; and

(d) An applicant receiving a personalized message license plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to such license plate.

(3) The department shall have sole authority to determine if the conditions prescribed in subsection (2) of this section have been met.

Source: Laws 2005, LB 274, § 118; Laws 2007, LB286, § 39; Laws 2015, LB231, § 14; Laws 2017, LB263, § 39.

60-3,119 Personalized message license plates; application; renewal; fee.

(1) Application for personalized message license plates shall be made to the department. The department shall make available through each county treasurer forms to be used for such applications.

(2) Each initial application shall be accompanied by a fee of forty dollars. The fees shall be remitted to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) An application for renewal of a license plate previously approved and issued shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subsection shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 119; Laws 2009, LB110, § 5; Laws 2012, LB801, § 72.

60-3,120 Personalized message license plates; delivery.

Until January 1, 2019, when the department approves an application for personalized message license plates, it shall notify the applicant and deliver the license plates to the county treasurer of the county in which the motor vehicle or trailer is to be registered. Beginning January 1, 2019, when the department approves an application for personalized message license plates, the department shall notify the applicant and deliver the license plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is to be registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall deliver such plates to the applicant, in lieu of regular license plates, when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer.

Source: Laws 2005, LB 274, § 120; Laws 2012, LB801, § 73; Laws 2017, LB263, § 40.

60-3,121 Personalized message license plates; transfer; credit allowed; fee.

(1) The owner of a motor vehicle or trailer bearing personalized message license plates may make application to the county treasurer to have such license plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such license plates were originally purchased if such motor vehicle or trailer is owned by the owner of the license plates.

(2) The owner may have the unused portion of the message plate fee credited to the other motor vehicle or trailer which will bear the license plate at the rate of eight and one-third percent per month for each full month left in the registration period.

(3) Application for such transfer shall be accompanied by a fee of three dollars. The fees shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 121; Laws 2012, LB801, § 74; Laws 2017, LB263, § 41.

60-3,122 Pearl Harbor plates.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that he or she is a survivor of the Japanese attack on Pearl Harbor if he or she:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(c) Was discharged or otherwise separated with a characterization of honorable from the United States Armed Forces; and

(d) Holds a current membership in a Nebraska Chapter of the Pearl Harbor Survivors Association.

(2) The license plates shall be issued upon the applicant paying the regular license fee and furnishing proof satisfactory to the department that the applicant fulfills the requirements provided by subsection (1) of this section. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

Source: Laws 2005, LB 274, § 122; Laws 2007, LB286, § 40; Laws 2009, LB110, § 6; Laws 2010, LB705, § 1; Laws 2015, LB642, § 5; Laws 2017, LB263, § 42.

60-3,122.02 Gold Star Family plates; fee; delivery.

(1) A person may apply to the department for Gold Star Family plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Gold Star Family plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section and furnishing proof satisfactory to the department that the applicant is a surviving spouse, whether remarried or not, or an ancestor, including a stepparent, a descendant, including a stepchild, a foster parent or a person in loco parentis, or a sibling of a person who died while in good standing on active duty in the military service of the United States.

(2)(a) Each application for initial issuance of consecutively numbered Gold Star Family plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee for initial issuance and renewal of such plates to the Nebraska Veteran Cemetery System Operation Fund.

(b) Each application for initial issuance of personalized message Gold Star Family plates shall be accompanied by a fee of forty dollars. An application for

renewal of such plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees for renewals pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(3) Until January 1, 2019, when the department receives an application for Gold Star Family plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Gold Star Family plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Gold Star Family plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Gold Star Family plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request and without charge.

(4) The owner of a motor vehicle or trailer bearing Gold Star Family plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Gold Star Family plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Gold Star Family plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

Source: Laws 2007, LB570, § 3; Laws 2009, LB110, § 7; Laws 2009, LB331, § 2; Laws 2012, LB801, § 75; Laws 2017, LB263, § 43.

60-3,122.03 Military Honor Plates.

(1) The department shall design license plates to be known as Military Honor Plates. The department shall create designs honoring persons who have served or are serving in the United States Army, United States Army Reserve, United States Navy, United States Navy Reserve, United States Marine Corps, United States Marine Corps Reserve, United States Coast Guard, United States Coast Guard Reserve, United States Air Force, United States Air Force Reserve, or National Guard. There shall be eleven designs, one for each of such armed forces reflecting its official emblem, official seal, or other official image. The

issuance of plates for each of such armed forces shall be conditioned on the approval of the armed forces owning the copyright to the official emblem, official seal, or other official image. A person may qualify for a Military Honor Plate by registering with the Department of Veterans' Affairs pursuant to section 80-414. The Department of Motor Vehicles shall verify the applicant's eligibility for a plate created pursuant to this section by consulting the registry established by the Department of Veterans' Affairs.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The Department of Motor Vehicles shall make applications available for each type of plate when it is designed. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,122.04.

(3) One type of Military Honor Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of Military Honor Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2014, LB383, § 9; Laws 2017, LB45, § 1.

60-3,122.04 Military Honor Plates; fee; eligibility; delivery; transfer.

(1) An eligible person may apply to the department for Military Honor Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Military Honor Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section and verification by the department of an applicant's eligibility using the registry established by the Department of Veterans' Affairs pursuant to section 80-414. To be eligible an applicant shall be (a) active duty or reserve duty armed forces personnel serving in any of the armed forces listed in subsection (1) of section 60-3,122.03, (b) a veteran of any of such armed forces who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (c) a current or former commissioned officer of the United States Public Health Service or National Oceanic and Atmospheric Administration who has been detailed directly to any branch of such armed forces for service on active or reserve duty and who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) as proven with valid orders from the United States Department of Defense, a statement of service provided by the United States Public Health Service, or a report of transfer or discharge provided by the National Oceanic and Atmospheric Administration. Any person using Military Honor Plates shall surrender the plates to the county treasurer if such person is no longer eligible for the plates. Regular plates shall be issued to any such person upon surrender of the Military Honor Plates for a three-dollar

transfer fee and forfeiture of any of the remaining annual fee. The three-dollar transfer fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Military Honor Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Military Honor Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Nebraska Veteran Cemetery System Operation Fund.

(3) Until January 1, 2019, when the Department of Motor Vehicles receives an application for Military Honor Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Military Honor Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Military Honor Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Military Honor Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Military Honor Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Military Honor Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska Veteran Cemetery System Operation Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Military Honor Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska Veteran Cemetery System Operation Fund.

(6) If the director discovers evidence of fraud in an application for Military Honor Plates or that the holder is no longer eligible to have Military Honor Plates, the director may summarily cancel the plates and registration and send notice of the cancellation to the holder of the license plates.

Source: Laws 2014, LB383, § 10; Laws 2017, LB45, § 2; Laws 2017, LB263, § 44.

60-3,123 Prisoner of war plates; fee.

(1) Any person who was captured and incarcerated by an enemy of the United States during a period of conflict with such enemy and who was discharged or otherwise separated with a characterization of honorable from or is currently serving in the United States Armed Forces may, in addition to the application required in section 60-385, apply to the department for license plates designed to indicate that he or she is a former prisoner of war.

(2) The license plates shall be issued upon the applicant paying the regular license fee and furnishing proof satisfactory to the department that the applicant was formerly a prisoner of war. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the license plates shall be issued replacement license plates upon request and without charge.

Source: Laws 2005, LB 274, § 123; Laws 2007, LB286, § 41; Laws 2009, LB110, § 8; Laws 2010, LB705, § 2; Laws 2014, LB383, § 6; Laws 2017, LB263, § 45.

60-3,124 Disabled veteran plates.

(1) Any person who is a veteran of the United States Armed Forces, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who is classified by the United States Department of Veterans Affairs as one hundred percent service-connected disabled may, in addition to the application required in section 60-385, apply to the Department of Motor Vehicles for license plates designed by the department to indicate that the applicant is a disabled veteran. The inscription on the license plates shall be D.A.V. immediately below the license plate number to indicate that the holder of the license plates is a disabled veteran.

(2) The plates shall be issued upon the applicant paying the regular license fee and furnishing proof satisfactory to the department that the applicant is a disabled veteran. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) If the license plates issued under this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates as provided in section 60-3,157.

Source: Laws 2005, LB 274, § 124; Laws 2007, LB286, § 42; Laws 2009, LB110, § 9; Laws 2010, LB705, § 3; Laws 2015, LB642, § 6; Laws 2017, LB263, § 46.

60-3,125 Purple Heart plates; fee.

(1) Any person may, in addition to the application required by section 60-385, apply to the department for license plates designed by the department to indicate that the applicant has received from the federal government an award of a Purple Heart. The inscription of the plates shall be designed so as to include a facsimile of the award and beneath any numerical designation upon the plates pursuant to section 60-370 the words Purple Heart separately on one line and the words Combat Wounded on the line below.

(2) The license plates shall be issued upon payment of the regular license fee and furnishing proof satisfactory to the department that the applicant was awarded the Purple Heart. Any number of motor vehicles, trailers, or semitrailers owned by the applicant may be so licensed at any one time. Motor vehicles and trailers registered under section 60-3,198 shall not be so licensed.

(3) If license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement license plates upon request and without charge.

Source: Laws 2005, LB 274, § 125; Laws 2007, LB286, § 43; Laws 2009, LB110, § 10; Laws 2014, LB383, § 7; Laws 2017, LB263, § 47.

60-3,126 Amateur radio station license plates; fee; renewal.

(1) Any person who holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission and is the owner of a motor vehicle, trailer, or semitrailer, except for motor vehicles and trailers registered under section 60-3,198, may, in addition to the application required by section 60-385, apply to the department for license plates upon which shall be inscribed the official amateur radio call letters of such applicant.

(2) Such license plates shall be issued, in lieu of the usual numbers and letters, to such an applicant upon payment of the regular license fee and the payment of an additional fee of five dollars and furnishing proof that the applicant holds such an unrevoked and unexpired amateur radio station license. The additional fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. Only one such motor vehicle or trailer owned by an applicant shall be so registered at any one time.

(3) An applicant applying for renewal of amateur radio station license plates shall again furnish proof that he or she holds an unrevoked and unexpired amateur radio station license issued by the Federal Communications Commission.

(4) The department shall prescribe the size and design of the license plates and furnish such plates to the persons applying for and entitled to the same upon the payment of the required fee.

Source: Laws 2005, LB 274, § 126; Laws 2007, LB286, § 44; Laws 2017, LB263, § 48.

60-3,128 Nebraska Cornhusker Spirit Plates; application; fee; delivery; transfer; credit allowed.

(1) A person may apply to the department for Nebraska Cornhusker Spirit Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for motor vehicles or trailers registered under section 60-3,198. An applicant receiving a spirit plate for a farm truck with a gross weight of over sixteen tons

or for a commercial motor vehicle registered for a gross weight of five tons or over shall affix the appropriate tonnage decal to the spirit plate. The department shall make forms available for such applications through the county treasurers. Each application for initial issuance or renewal of spirit plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer. The State Treasurer shall credit forty-three percent of the fees for initial issuance and renewal of spirit plates to the Department of Motor Vehicles Cash Fund. The State Treasurer shall credit fifty-seven percent of the fees to the Spirit Plate Proceeds Fund until the fund has been credited five million dollars from such fees and thereafter to the Highway Trust Fund.

(2) Until January 1, 2019, when the department receives an application for spirit plates, it shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for spirit plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue spirit plates in lieu of regular license plates when the applicant complies with the other provisions of law for registration of the motor vehicle or trailer. If spirit plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(3)(a) The owner of a motor vehicle or trailer bearing spirit plates may make application to the county treasurer to have such spirit plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the spirit plates.

(b) The owner may have the unused portion of the spirit plate fee credited to the other motor vehicle or trailer which will bear the spirit plate at the rate of eight and one-third percent per month for each full month left in the registration period.

(c) Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2005, LB 274, § 128; Laws 2007, LB286, § 45; Laws 2009, LB110, § 11; Laws 2012, LB801, § 76; Laws 2017, LB263, § 49.

60-3,130.04 Historical vehicle; model-year license plates; authorized.

(1) An owner of a historical vehicle eligible for registration under section 60-3,130 may use a license plate or plates designed by this state in the year corresponding to the model year when the vehicle was manufactured in lieu of the plates designed pursuant to section 60-3,130.03 subject to the approval of the department. The department shall inspect the plate or plates and may approve the plate or plates if it is determined that the model-year license plate or plates are legible and serviceable and that the license plate numbers do not conflict with or duplicate other numbers assigned and in use. An original-issued license plate or plates that have been restored to original condition may be used when approved by the department.

(2) The department may consult with a recognized car club in determining whether the year of the license plate or plates to be used corresponds to the model year when the vehicle was manufactured.

(3) If only one license plate is used on the vehicle, the license plate shall be placed on the rear of the vehicle. The owner of a historical vehicle may use only one plate on the vehicle even for years in which two license plates were issued for vehicles in general.

(4) License plates used pursuant to this section corresponding to the year of manufacture of the vehicle shall not be personalized message license plates, Pearl Harbor license plates, prisoner-of-war license plates, disabled veteran license plates, Purple Heart license plates, amateur radio station license plates, Nebraska Cornhusker Spirit Plates, handicapped or disabled person license plates, specialty license plates, special interest motor vehicle license plates, Military Honor Plates, Nebraska 150 Sesquicentennial Plates, Breast Cancer Awareness Plates, Mountain Lion Conservation Plates, Choose Life License Plates, or Native American Cultural Awareness and History Plates.

Source: Laws 2006, LB 663, § 28; Laws 2007, LB286, § 46; Laws 2009, LB110, § 13; Laws 2013, LB32, § 1; Laws 2014, LB383, § 8; Laws 2015, LB220, § 6; Laws 2016, LB474, § 8; Laws 2016, LB977, § 8; Laws 2017, LB46, § 6; Laws 2017, LB263, § 50.

60-3,135.01 Special interest motor vehicle license plates; application; fee; delivery; special interest motor vehicle; restrictions on use; prohibited acts; penalty.

(1) The department shall either modify an existing plate design or design license plates to identify special interest motor vehicles, to be known as special interest motor vehicle license plates. The department, in designing such special interest motor vehicle license plates, shall include the words special interest and limit the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall choose the design of the plate. The department shall make applications available for this type of plate when it is designed.

(2) One type of special interest motor vehicle license plate shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to seven characters; and
- (b) Not use a county designation.

(3) One type of special interest motor vehicle license plate shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

(4) A person may apply to the department for a special interest motor vehicle license plate in lieu of regular license plates on an application prescribed and provided by the department for any special interest motor vehicle, except that no motor vehicle registered under section 60-3,198, autocycle, motorcycle, or trailer shall be eligible for special interest motor vehicle license plates. The department shall make forms available for such applications through the county treasurers.

(5) The form shall contain a description of the special interest motor vehicle owned and sought to be registered, including the make, body type, model, serial number, and year of manufacture.

(6)(a) In addition to all other fees required to register a motor vehicle, each application for initial issuance or renewal of a special interest motor vehicle license plate shall be accompanied by a special interest motor vehicle license plate fee of fifty dollars. Twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund, and twenty-five dollars of the special interest motor vehicle license plate fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund.

(b) If a special interest motor vehicle license plate is lost, stolen, or mutilated, the owner shall be issued a replacement license plate pursuant to section 60-3,157.

(7) Until January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department shall deliver the plate to the county treasurer of the county in which the special interest motor vehicle is registered. Beginning January 1, 2019, when the department receives an application for a special interest motor vehicle license plate, the department may deliver the plate and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the special interest motor vehicle is registered and the delivery of the plate and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue the special interest motor vehicle license plate in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the special interest motor vehicle.

(8) If the cost of manufacturing special interest motor vehicle license plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Department of Motor Vehicles Cash Fund under this section shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of special interest motor vehicle license plates and the amount charged pursuant to section 60-3,102 with respect to such license plates and the remainder shall be credited to the Department of Motor Vehicles Cash Fund.

(9) The special interest motor vehicle license plate shall be affixed to the rear of the special interest motor vehicle.

(10) A special interest motor vehicle shall not be used for the same purposes and under the same conditions as other motor vehicles of the same type and shall not be used for business or occupation or regularly for transportation to and from work. A special interest motor vehicle may be driven on the public streets and roads only for occasional transportation, public displays, parades, and related pleasure or hobby activities.

(11) It shall be unlawful to own or operate a motor vehicle with special interest motor vehicle license plates in violation of this section. Upon conviction of a violation of any provision of this section, a person shall be guilty of a Class V misdemeanor.

(12) For purposes of this section, special interest motor vehicle means a motor vehicle of any age which is being collected, preserved, restored, or maintained by the owner as a leisure pursuit and not used for general transportation of persons or cargo.

Source: Laws 2012, LB216, § 4; Laws 2015, LB231, § 15; Laws 2017, LB263, § 51.

60-3,136 Motor vehicle insurance data base; created; powers and duties; Motor Vehicle Insurance Data Base Task Force; created.

(1)(a) The motor vehicle insurance data base is created. The department shall develop and administer the motor vehicle insurance data base which shall include the information provided by insurance companies as required by the department pursuant to sections 60-3,136 to 60-3,139. The motor vehicle insurance data base shall be used to facilitate registration of motor vehicles in this state by the department and its agents. The director may contract with a designated agent for the purpose of establishing and operating the motor vehicle insurance data base and monitoring compliance with the financial responsibility requirements of such sections.

(b) The department may adopt and promulgate rules and regulations to carry out sections 60-3,136 to 60-3,139. The rules and regulations shall include specifications for the information to be transmitted by the insurance companies to the department for inclusion in the motor vehicle insurance data base, and specifications for the form and manner of transmission of data for inclusion in the motor vehicle insurance data base, as recommended by the Motor Vehicle Insurance Data Base Task Force created in subsection (2) of this section in its report to the department.

(2)(a) The Motor Vehicle Insurance Data Base Task Force is created. The Motor Vehicle Insurance Data Base Task Force shall investigate the best practices of the industry and recommend specifications for the information to be transmitted by the insurance companies to the department for inclusion in the motor vehicle insurance data base and specifications for the form and manner of transmission of data for inclusion in the motor vehicle insurance data base.

(b) The Motor Vehicle Insurance Data Base Task Force shall consist of:

(i) The Director of Motor Vehicles or his or her designee;

(ii) The Director of Insurance or his or her designee;

(iii) The following members who shall be selected by the Director of Insurance:

(A) One representative of a domestic automobile insurance company or domestic automobile insurance companies;

(B) One representative of an admitted foreign automobile insurance company or admitted foreign automobile insurance companies; and

(C) One representative of insurance producers licensed under the laws of this state; and

(iv) Four members to be selected by the Director of Motor Vehicles.

(c) The requirements of this subsection shall expire on July 1, 2004, except that the director may reconvene the task force at any time thereafter if he or she deems it necessary.

Source: Laws 2005, LB 274, § 136; Laws 2016, LB666, § 1.

60-3,140 Registration fees; to whom payable.

All fees for the registration of motor vehicles or trailers, unless otherwise expressly provided, shall be paid to the county treasurer of the county in which

the motor vehicle or trailer has situs. If registered pursuant to section 60-3,198, all fees shall be paid to the department.

Source: Laws 2005, LB 274, § 140; Laws 2012, LB801, § 77.

60-3,141 Agents of department; fees; collection.

(1) The various county treasurers shall act as agents for the department in the collection of all motor vehicle taxes, motor vehicle fees, and registration fees. An approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 may collect all such taxes and fees as agent for the appropriate county treasurer and the department in a manner provided by such system.

(2) While acting as agents pursuant to subsection (1) of this section, the county treasurers or any approved licensed dealers participating in the electronic dealer services system shall in addition to the taxes and registration fees collect one dollar and fifty cents for each registration of a motor vehicle or trailer of a resident of the State of Nebraska and four dollars and fifty cents for each registration of a motor vehicle or trailer of a nonresident. The county treasurer shall credit such additional fees collected by the county treasurer or any approved licensed dealer participating in the electronic dealer services system to the county general fund in a manner provided by such system.

(3) The county treasurers shall transmit all motor vehicle fees and registration fees collected pursuant to this section to the State Treasurer on or before the twentieth day of each month and at such other times as the State Treasurer requires for credit to the Motor Vehicle Fee Fund and the Highway Trust Fund, respectively, except as provided in section 60-3,156. Any county treasurer who fails to transfer to the State Treasurer the amount due the state at the times required in this section shall pay interest at the rate specified in section 45-104.02, as such rate may be adjusted from time to time, from the time the motor vehicle fees and registration fees become due until paid.

(4) If a registrant requests delivery of license plates, registration certificates, or validation decals by mail, the county treasurer may charge a postage and handling fee in an amount not more than necessary to recover the cost of postage and handling for the specific items mailed to the registrant.

Source: Laws 2005, LB 274, § 141; Laws 2007, LB286, § 47; Laws 2012, LB801, § 78; Laws 2013, LB207, § 2; Laws 2017, LB263, § 52. Operative date January 1, 2019.

60-3,142 Fees; retention by county.

The various county treasurers acting as agents for the department in collection of the fees shall retain five percent of each fee collected under section 60-3,112 for credit to the county general fund.

Source: Laws 2005, LB 274, § 142; Laws 2007, LB286, § 48; Laws 2012, LB801, § 79.

60-3,143 Autocycle; passenger motor vehicle; leased motor vehicle; registration fee.

(1) For autocycles, the registration fee shall be as provided in section 60-3,153.

(2) For every motor vehicle of ten-passenger capacity or less and not used for hire, the registration fee shall be fifteen dollars.

(3) For each motor vehicle having a seating capacity of ten persons or less and used for hire, the registration fee shall be six dollars plus an additional four dollars for every person such motor vehicle is equipped to carry in addition to the driver.

(4) For motor vehicles leased for hire when no driver or chauffeur is furnished by the lessor as part of the consideration paid for by the lessee, incident to the operation of the leased motor vehicle, the fee shall be fifteen dollars.

Source: Laws 2005, LB 274, § 143; Laws 2015, LB231, § 16; Laws 2018, LB909, § 63.

Effective date April 12, 2018.

60-3,144 Buses; registration fees.

(1) For buses used exclusively to carry children to and from school, and other school activities, the registration fee shall be ten dollars.

(2) For buses equipped to carry more than ten persons for hire, the fee shall be based on the weight of such bus. To ascertain the weight, the unladen weight in pounds shall be used. There shall be added to such weight in pounds the number of persons such bus is equipped to carry times two hundred, the sum thereof being the weight of such bus for license purposes. The unladen weight shall be ascertained by scale weighing of the bus fully equipped and as used upon the highways under the supervision of a member of the Nebraska State Patrol or a carrier enforcement officer and certified by such patrol member or carrier enforcement officer to the department or county treasurer. The fee therefor shall be as follows:

(a) If such bus weighs thirty-two thousand pounds and less than thirty-four thousand pounds, it shall be licensed as a twelve-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(b) If such bus weighs thirty thousand pounds and less than thirty-two thousand pounds, it shall be licensed as an eleven-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(c) If such bus weighs twenty-eight thousand pounds and less than thirty thousand pounds, it shall be licensed as a ten-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(d) If such bus weighs twenty-two thousand pounds and less than twenty-eight thousand pounds, it shall be licensed as a nine-ton truck as provided in section 60-3,147 and pay the same fee as therein provided;

(e) If such bus weighs sixteen thousand pounds and less than twenty-two thousand pounds, it shall be licensed as an eight-ton truck as provided in section 60-3,147 and pay the same fee as therein provided; and

(f) If such bus weighs less than sixteen thousand pounds, it shall be licensed as a five-ton truck as provided in section 60-3,147 and pay the same fee as therein provided, except that upon registration of buses equipped to carry ten passengers or more and engaged entirely in the transportation of passengers for hire within municipalities or in and within a radius of five miles thereof the fee shall be seventy-five dollars, and for buses equipped to carry more than ten passengers and not for hire the registration fee shall be thirty dollars.

(3) License plates issued under this section shall be the same size and of the same basic design as regular license plates issued under section 60-3,100.

Source: Laws 2005, LB 274, § 144; Laws 2012, LB801, § 80.

60-3,147 Commercial motor vehicles; public power district motor vehicles; metropolitan utilities district motor vehicles; registration fees.

(1) The registration fee on commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles, except those motor vehicles registered under section 60-3,198, shall be based upon the gross vehicle weight, not to exceed the maximum authorized by section 60-6,294.

(2) The registration fee on commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles, except for motor vehicles and trailers registered under section 60-3,198, shall be based on the gross vehicle weight on such commercial motor vehicles, public power district motor vehicles, or metropolitan utilities district motor vehicles plus the gross vehicle weight of any trailer or combination with which it is operated, except that for the purpose of determining the registration fee, the gross vehicle weight of a commercial motor vehicle towing or hauling a disabled or wrecked motor vehicle properly registered for use on the highways shall be only the gross vehicle weight of the towing commercial motor vehicle fully equipped and not including the weight of the motor vehicle being towed or hauled.

(3) Except as provided in subsection (4) of this section, the registration fee on such commercial motor vehicles, public power district motor vehicles, and, beginning January 1, 2023, metropolitan utilities district motor vehicles shall be at the following rates:

- (a) For a gross vehicle weight of three tons or less, eighteen dollars;
- (b) For a gross vehicle weight exceeding three tons and not exceeding four tons, twenty-five dollars;
- (c) For a gross vehicle weight exceeding four tons and not exceeding five tons, thirty-five dollars;
- (d) For a gross vehicle weight exceeding five tons and not exceeding six tons, sixty dollars;
- (e) For a gross vehicle weight exceeding six tons but not exceeding seven tons, eighty-five dollars; and
- (f) For a gross vehicle weight in excess of seven tons, the fee shall be that for a commercial motor vehicle, public power district motor vehicle, or metropolitan utilities district motor vehicle having a gross vehicle weight of seven tons and, in addition thereto, twenty-five dollars for each ton of gross vehicle weight over seven tons.

(4)(a) For fractional tons in excess of the twenty percent or the tolerance of one thousand pounds, as provided in section 60-6,300, the fee shall be computed on the basis of the next higher bracket.

(b) The fees provided by this section shall be reduced ten percent for motor vehicles used exclusively for the transportation of agricultural products.

(c) Fees for commercial motor vehicles, public power district motor vehicles, or, beginning January 1, 2023, metropolitan utilities district motor vehicles

with a gross vehicle weight in excess of thirty-six tons shall be increased by twenty percent for all such commercial motor vehicles, public power district motor vehicles, or metropolitan utilities district motor vehicles operated on any highway not a part of the National System of Interstate and Defense Highways.

(5)(a) Such fee may be paid one-half at the time of registration and one-half on the first day of the seventh month of the registration period when the license fee exceeds two hundred ten dollars. When the second half is paid, the county treasurer shall furnish a registration certificate and license plates issued by the department which shall be displayed on such commercial motor vehicle in the manner provided by law. In addition to the registration fee, the department shall collect a sufficient fee to cover the cost of issuing the certificate and license plates.

(b) If such second half is not paid within thirty days following the first day of the seventh month, the registration of such commercial motor vehicle shall be canceled and the registration certificate and license plates shall be returned to the county treasurer.

(c) Such fee shall be paid prior to any subsequent registration or renewal of registration.

(6) Except as provided in section 60-3,228, license plates issued under this section shall be the same size and of the same basic design as regular license plates issued under section 60-3,100.

(7) A license plate or plates issued to a commercial motor vehicle with a gross weight of five tons or over shall display, in addition to the registration number, the weight that the commercial motor vehicle is licensed for, using a decal on the license plate or plates of the commercial motor vehicle in letters and numerals of such size and design as shall be determined and issued by the department.

Source: Laws 2005, LB 274, § 147; Laws 2007, LB286, § 50; Laws 2012, LB801, § 81; Laws 2016, LB783, § 8; Laws 2018, LB909, § 64.
Effective date April 12, 2018.

60-3,148 Commercial motor vehicle; public power district motor vehicle; metropolitan utilities district motor vehicle; increase of gross vehicle weight; where allowed.

(1) This subsection applies until January 1, 2023. No owner of a commercial motor vehicle or public power district motor vehicle shall be permitted to increase the gross vehicle weight for which such commercial motor vehicle or public power district motor vehicle is registered except at the office of the county treasurer in the county where such commercial motor vehicle or public power district motor vehicle is currently registered unless the need for such increase occurs when such commercial motor vehicle is more than one hundred miles from the county seat of such county or the public power district motor vehicle is more than one hundred miles from its base location, unless authorized to do so by the Nebraska State Patrol or authorized state scale examiner as an emergency.

(2) This subsection applies beginning January 1, 2023. No owner of a commercial motor vehicle, metropolitan utilities district motor vehicle, or public power district motor vehicle shall be permitted to increase the gross vehicle weight for which such commercial motor vehicle, metropolitan utilities

district motor vehicle, or public power district motor vehicle is registered except at the office of the county treasurer in the county where such commercial motor vehicle, metropolitan utilities district motor vehicle, or public power district motor vehicle is currently registered unless the need for such increase occurs when such commercial motor vehicle is more than one hundred miles from the county seat of such county or the metropolitan utilities district motor vehicle or public power district motor vehicle is more than one hundred miles from its base location, unless authorized to do so by the Nebraska State Patrol or authorized state scale examiner as an emergency.

Source: Laws 2005, LB 274, § 148; Laws 2012, LB801, § 82; Laws 2016, LB783, § 9; Laws 2018, LB909, § 65.
Effective date April 12, 2018.

60-3,151 Trailers; recreational vehicles; registration fee.

(1) For the registration of any commercial trailer or semitrailer, the fee shall be one dollar.

(2) The fee for utility trailers shall be one dollar for each one thousand pounds gross vehicle weight or fraction thereof, up to and including nine thousand pounds. Utility trailer license plates shall display, in addition to the registration number, the letter X. Trailers other than farm trailers of more than nine thousand pounds must be registered as commercial trailers.

(3) The fee for cabin trailers having gross vehicle weight of one thousand pounds or less shall be nine dollars and more than one thousand pounds, but less than two thousand pounds, shall be twelve dollars. Cabin trailers having a gross vehicle weight of two thousand pounds or more shall be registered for a fee of fifteen dollars.

(4) Recreational vehicles having a gross vehicle weight of eight thousand pounds or less shall be registered for a fee of eighteen dollars, those having a gross vehicle weight of more than eight thousand pounds but less than twelve thousand pounds shall be registered for thirty dollars, and those having a gross vehicle weight of twelve thousand pounds or over shall be registered for forty-two dollars. When living quarters are added to a registered truck, a recreational vehicle registration may be obtained without surrender of the truck registration, in which event both the truck and recreational vehicle license plates shall be displayed on the vehicle. Recreational vehicle license plates shall be the same size and of the same basic design as regular license plates issued pursuant to section 60-3,100.

(5) Farm trailers shall be licensed for a fee of one dollar, except that when a farm trailer is used with a registered farm truck, such farm trailer may, at the option of the owner, be registered as a separate unit for a fee of three dollars per ton gross vehicle weight and, if so registered, shall not be considered a truck and trailer combination for purposes of sections 60-3,145 and 60-3,146. Farm trailer license plates shall display, in addition to the registration number, the letter X.

(6) Fertilizer trailers shall be registered for a fee of one dollar. Fertilizer trailer license plates shall display, in addition to the registration number, the letter X.

(7) Trailers used to haul poles and cable reels owned and operated exclusively by public utility companies shall be licensed at a fee based on two dollars for

each one-thousand-pound load to be hauled or any fraction thereof, and such load shall not exceed sixteen thousand pounds.

Source: Laws 2005, LB 274, § 151; Laws 2016, LB783, § 10; Laws 2017, LB263, § 53.

60-3,156 Additional fees.

In addition to the registration fees for motor vehicles and trailers, the county treasurer or his or her agent shall collect:

(1) Two dollars for each certificate issued and shall remit two dollars of each additional fee collected to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund;

(2) Fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the Nebraska Emergency Medical System Operations Fund; and

(3) One dollar and fifty cents for each certificate issued and shall remit the fee to the State Treasurer for credit to the State Recreation Road Fund.

Source: Laws 2005, LB 274, § 156; Laws 2012, LB801, § 83; Laws 2013, LB207, § 3.

60-3,157 Lost or mutilated license plate or registration certificate; duplicate; fees.

If a license plate or registration certificate is lost or mutilated or has become illegible, the person to whom such license plate and registration certificate has been issued shall immediately apply to the county treasurer for a duplicate registration certificate or for new license plates, accompanying his or her application with a fee of one dollar for a duplicate registration certificate and a fee of two dollars and fifty cents for a duplicate or replacement license plate. No fee shall be required under this section if the vehicle or trailer was reported stolen under section 60-178.

Source: Laws 2005, LB 274, § 157; Laws 2009, LB175, § 2; Laws 2012, LB801, § 84.

60-3,158 Methods of payment authorized.

A county treasurer or his or her agent may accept credit cards, charge cards, debit cards, or electronic funds transfers as a means of payment for registration pursuant to section 13-609.

Source: Laws 2005, LB 274, § 158; Laws 2012, LB801, § 85.

60-3,159 Registration fees; fees for previous years.

Upon application to register any motor vehicle or trailer, no registration fee shall be required to be paid thereon for any previous registration period during which such motor vehicle or trailer was not at any time driven or used upon any highway within this state, and the person desiring to register such motor vehicle or trailer without payment of fees for previous registration periods shall file with the county treasurer an affidavit showing where, when, and for how long such motor vehicle or trailer was stored and that the same was not used in

this state during such registration period or periods, and upon receipt thereof the county treasurer shall issue a registration certificate.

Source: Laws 2005, LB 274, § 159; Laws 2012, LB801, § 86.

60-3,161 Transferred to section 60-1506.

60-3,163 Repealed. Laws 2012, LB 751, § 57.

60-3,166 Law enforcement officers; arrest violators; violations; penalty; payment of taxes and fees.

It shall be the duty of all law enforcement officers to arrest all violators of any of the provisions of sections 60-373, 60-374, 60-375, 60-376, 60-378, 60-379, and 60-3,114 to 60-3,116. Any person, firm, or corporation, including any motor vehicle, trailer, or boat dealer or manufacturer, who fails to comply with such provisions shall be guilty of a Class V misdemeanor and, in addition thereto, shall pay the county treasurer any and all motor vehicle taxes and fees imposed in sections 60-3,185 and 60-3,190, registration fees, or certification fees due had the motor vehicle or trailer been properly registered or certified according to law.

Source: Laws 2005, LB 274, § 166; Laws 2012, LB801, § 88.

60-3,184 Motor vehicle tax and fee; terms, defined.

For purposes of sections 60-3,184 to 60-3,190:

(1) Automobile means passenger cars, trucks, utility vehicles, and vans up to and including seven tons;

(2) Motor vehicle means every motor vehicle, trailer, and semitrailer subject to the payment of registration fees or permit fees under the laws of this state;

(3) Motor vehicle fee means the fee imposed upon motor vehicles under section 60-3,190;

(4) Motor vehicle tax means the tax imposed upon motor vehicles under section 60-3,185; and

(5) Registration period means the period from the date of registration pursuant to section 60-392 to the first day of the month following one year after such date.

Source: Laws 2005, LB 274, § 184; Laws 2007, LB286, § 52; Laws 2017, LB263, § 54.

60-3,185 Motor vehicle tax; exemptions.

A motor vehicle tax is imposed on motor vehicles registered for operation upon the highways of this state, except:

(1) Motor vehicles exempt from the registration fee in section 60-3,160;

(2) One motor vehicle owned and used for his or her personal transportation by a disabled or blind veteran of the United States Armed Forces as defined in section 77-202.23 whose disability or blindness is recognized by the United States Department of Veterans Affairs and who was discharged or otherwise separated with a characterization of honorable if an application for the exemption has been approved under subsection (1) of section 60-3,189;

(3) Motor vehicles owned by Indians who are members of an Indian tribe;

(4) Motor vehicles owned by a member of the United States Armed Forces serving in this state in compliance with military or naval orders or his or her spouse if such servicemember or spouse is a resident of a state other than Nebraska;

(5) Motor vehicles owned by the state and its governmental subdivisions and exempt as provided in subdivision (1)(a) or (b) of section 77-202;

(6) Motor vehicles owned and used exclusively by an organization or society qualified for a tax exemption provided in subdivision (1)(c) or (d) of section 77-202 if an application for the exemption provided in this subdivision has been approved under subsection (2) of section 60-3,189; and

(7) Trucks, trailers, or combinations thereof registered under section 60-3,198.

Source: Laws 2005, LB 274, § 185; Laws 2018, LB909, § 66.
Effective date April 12, 2018.

60-3,186 Motor vehicle tax; notice; taxes and fees; payment; proceeds; disposition.

(1) The department shall annually determine the motor vehicle tax on each motor vehicle registered pursuant to section 60-3,187 and shall cause a notice of the amount to be delivered to the registrant. The notice may be delivered to the registrant at the address shown upon his or her registration certificate or the registrant's most recent address according to information received by the department from the National Change of Address program of the United States Postal Service or delivered electronically to the registrant if the registrant has provided electronic contact information to the department. The notice shall be provided on or before the first day of the last month of the registration period.

(2)(a) The motor vehicle tax, motor vehicle fee, registration fee, sales tax, and any other applicable taxes and fees shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. If the motor vehicle being registered has been transferred as a gift or for a nominal amount, any sales tax owed by the transferor on the purchase of the motor vehicle shall have been paid or be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period.

(b) After retaining one percent of the motor vehicle tax proceeds collected for costs incurred by the county treasurer, and after transferring one percent of the motor vehicle tax proceeds collected to the State Treasurer for credit to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund, the remaining motor vehicle tax proceeds shall be allocated to each county, local school system, school district, city, and village in the tax district in which the motor vehicle has situs.

(c)(i) Twenty-two percent of the remaining motor vehicle tax proceeds shall be allocated to the county, (ii) sixty percent shall be allocated to the local school system or school district, and (iii) eighteen percent shall be allocated to the city or village, except that (A) if the tax district is not in a city or village, forty percent shall be allocated to the county, and (B) in counties containing a city of the metropolitan class, eighteen percent shall be allocated to the county and twenty-two percent shall be allocated to the city or village.

(d) The amount allocated to a local school system shall be distributed to school districts in the same manner as property taxes.

(3) Proceeds from the motor vehicle tax shall be treated as property tax revenue for purposes of expenditure limitations, matching of state or federal funds, and other purposes.

Source: Laws 2005, LB 274, § 186; Laws 2006, LB 248, § 1; Laws 2007, LB286, § 53; Laws 2012, LB801, § 89; Laws 2013, LB207, § 4; Laws 2016, LB977, § 11.

60-3,187 Motor vehicle tax schedules; calculation of tax.

(1) The motor vehicle tax schedules are set out in this section.

(2) The motor vehicle tax shall be calculated by multiplying the base tax times the fraction which corresponds to the age category of the vehicle as shown in the following table:

| YEAR | FRACTION |
|------------------------|----------|
| First | 1.00 |
| Second | 0.90 |
| Third | 0.80 |
| Fourth | 0.70 |
| Fifth | 0.60 |
| Sixth | 0.51 |
| Seventh | 0.42 |
| Eighth | 0.33 |
| Ninth | 0.24 |
| Tenth and Eleventh | 0.15 |
| Twelfth and Thirteenth | 0.07 |
| Fourteenth and older | 0.00 |

(3) The base tax shall be:

(a) Automobiles, autocycles, and motorcycles — An amount determined using the following table:

| Value when new | Base tax |
|----------------------|----------|
| Up to \$ 3,999 | \$ 25 |
| \$ 4,000 to \$ 5,999 | 35 |
| \$ 6,000 to \$ 7,999 | 45 |
| \$ 8,000 to \$ 9,999 | 60 |
| \$10,000 to \$11,999 | 100 |
| \$12,000 to \$13,999 | 140 |
| \$14,000 to \$15,999 | 180 |
| \$16,000 to \$17,999 | 220 |
| \$18,000 to \$19,999 | 260 |
| \$20,000 to \$21,999 | 300 |
| \$22,000 to \$23,999 | 340 |
| \$24,000 to \$25,999 | 380 |
| \$26,000 to \$27,999 | 420 |
| \$28,000 to \$29,999 | 460 |
| \$30,000 to \$31,999 | 500 |
| \$32,000 to \$33,999 | 540 |
| \$34,000 to \$35,999 | 580 |
| \$36,000 to \$37,999 | 620 |
| \$38,000 to \$39,999 | 660 |
| \$40,000 to \$41,999 | 700 |

| | |
|----------------------|-------|
| \$42,000 to \$43,999 | 740 |
| \$44,000 to \$45,999 | 780 |
| \$46,000 to \$47,999 | 820 |
| \$48,000 to \$49,999 | 860 |
| \$50,000 to \$51,999 | 900 |
| \$52,000 to \$53,999 | 940 |
| \$54,000 to \$55,999 | 980 |
| \$56,000 to \$57,999 | 1,020 |
| \$58,000 to \$59,999 | 1,060 |
| \$60,000 to \$61,999 | 1,100 |
| \$62,000 to \$63,999 | 1,140 |
| \$64,000 to \$65,999 | 1,180 |
| \$66,000 to \$67,999 | 1,220 |
| \$68,000 to \$69,999 | 1,260 |
| \$70,000 to \$71,999 | 1,300 |
| \$72,000 to \$73,999 | 1,340 |
| \$74,000 to \$75,999 | 1,380 |
| \$76,000 to \$77,999 | 1,420 |
| \$78,000 to \$79,999 | 1,460 |
| \$80,000 to \$81,999 | 1,500 |
| \$82,000 to \$83,999 | 1,540 |
| \$84,000 to \$85,999 | 1,580 |
| \$86,000 to \$87,999 | 1,620 |
| \$88,000 to \$89,999 | 1,660 |
| \$90,000 to \$91,999 | 1,700 |
| \$92,000 to \$93,999 | 1,740 |
| \$94,000 to \$95,999 | 1,780 |
| \$96,000 to \$97,999 | 1,820 |
| \$98,000 to \$99,999 | 1,860 |
| \$100,000 and over | 1,900 |

- (b) Assembled automobiles — \$60
- (c) Assembled motorcycles other than autocycles — \$25
- (d) Cabin trailers, up to one thousand pounds — \$10
- (e) Cabin trailers, one thousand pounds and over and less than two thousand pounds — \$25
- (f) Cabin trailers, two thousand pounds and over — \$40
- (g) Recreational vehicles, less than eight thousand pounds — \$160
- (h) Recreational vehicles, eight thousand pounds and over and less than twelve thousand pounds — \$410
- (i) Recreational vehicles, twelve thousand pounds and over — \$860
- (j) Assembled recreational vehicles and buses shall follow the schedules for body type and registered weight
- (k) Trucks — Over seven tons and less than ten tons — \$360
- (l) Trucks — Ten tons and over and less than thirteen tons — \$560
- (m) Trucks — Thirteen tons and over and less than sixteen tons — \$760
- (n) Trucks — Sixteen tons and over and less than twenty-five tons — \$960
- (o) Trucks — Twenty-five tons and over — \$1,160
- (p) Buses — \$360
- (q) Trailers other than semitrailers — \$10

- (r) Semitrailers — \$110
- (s) Minitrucks — \$50
- (t) Low-speed vehicles — \$50

(4) For purposes of subsection (3) of this section, truck means all trucks and combinations of trucks except those trucks, trailers, or combinations thereof registered under section 60-3,198, and the tax is based on the gross vehicle weight rating as reported by the manufacturer.

(5) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.

(6) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle tax in the first registration period and ninety-five percent of the initial motor vehicle tax in the second registration period.

(7) Assembled cabin trailers, assembled recreational vehicles, and assembled buses shall be designated as sixth-year motor vehicles in their first year of registration for purposes of the schedules.

(8) When a motor vehicle is registered which is required to have a title branded as previous salvage pursuant to section 60-175, the motor vehicle tax shall be reduced by twenty-five percent.

Source: Laws 2005, LB 274, § 187; Laws 2006, LB 248, § 2; Laws 2006, LB 765, § 7; Laws 2010, LB650, § 28; Laws 2011, LB289, § 22; Laws 2015, LB231, § 17; Laws 2018, LB909, § 67.
Effective date April 12, 2018.

60-3,189 Tax exemption; procedure; appeal.

(1) A veteran of the United States Armed Forces who qualifies for an exemption from the motor vehicle tax under subdivision (2) of section 60-3,185 shall apply for the exemption to the county treasurer not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer shall approve or deny the application and notify the applicant of his or her decision within twenty days after the filing of the application. An applicant may appeal the denial of an application to the county board of equalization within twenty days after the date the notice was mailed.

(2) An organization which qualifies for an exemption from the motor vehicle tax under subdivision (6) of section 60-3,185 shall apply for the exemption to the county treasurer not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. For a newly acquired motor vehicle, an application for exemption must be made within thirty days after the purchase date. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer shall examine the application and recommend either exempt or nonexempt status to the county board of equalization within twenty days after receipt of the application. The county board of equalization, after a hearing on ten days' notice to the applicant and after considering the recommendation of the county treasurer and any other information it may obtain, shall approve or deny the exemption

on the basis of law and of rules and regulations adopted and promulgated by the Tax Commissioner within thirty days after the hearing. The county board of equalization shall mail or deliver its final decision to the applicant and the county treasurer within seven days after the date of decision. The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act within thirty days after the final decision.

Source: Laws 2005, LB 274, § 189; Laws 2007, LB334, § 10; Laws 2012, LB801, § 90.

Cross References

Tax Equalization and Review Commission Act, see section 77-5001.

60-3,190 Motor vehicle fee; fee schedules; Motor Vehicle Fee Fund; created; use; investment.

(1) A motor vehicle fee is imposed on all motor vehicles registered for operation in this state. An owner of a motor vehicle which is exempt from the imposition of a motor vehicle tax pursuant to section 60-3,185 shall also be exempt from the imposition of the motor vehicle fee imposed pursuant to this section.

(2) The department shall annually determine the motor vehicle fee on each motor vehicle registered pursuant to this section and shall cause a notice of the amount to be delivered to the registrant. The notice shall be combined with the notice of the motor vehicle tax required by section 60-3,186.

(3) The motor vehicle fee schedules are set out in this subsection and subsection (4) of this section. Except for automobiles with a value when new of less than \$20,000, and for assembled, reconstructed-designated, and replica-designated automobiles, the fee shall be calculated by multiplying the base fee times the fraction which corresponds to the age category of the automobile as shown in the following table:

| YEAR | FRACTION |
|---------------------|----------|
| First through fifth | 1.00 |
| Sixth through tenth | .70 |
| Eleventh and over | .35 |

(4) The base fee shall be:

(a) Automobiles, with a value when new of less than \$20,000, and assembled, reconstructed-designated, and replica-designated automobiles — \$5

(b) Automobiles, with a value when new of \$20,000 through \$39,999 — \$20

(c) Automobiles, with a value when new of \$40,000 or more — \$30

(d) Motorcycles and autocycles — \$10

(e) Recreational vehicles and cabin trailers — \$10

(f) Trucks over seven tons and buses — \$30

(g) Trailers other than semitrailers — \$10

(h) Semitrailers — \$30

(i) Minitrucks — \$10

(j) Low-speed vehicles — \$10.

(5) The motor vehicle tax, motor vehicle fee, and registration fee shall be paid to the county treasurer prior to the registration of the motor vehicle for the following registration period. After retaining one percent of the motor vehicle fee collected for costs, the remaining proceeds shall be remitted to the State Treasurer for credit to the Motor Vehicle Fee Fund. The State Treasurer shall return funds from the Motor Vehicle Fee Fund remitted by a county treasurer which are needed for refunds or credits authorized by law.

(6)(a) The Motor Vehicle Fee Fund is created. On or before the last day of each calendar quarter, the State Treasurer shall distribute all funds in the Motor Vehicle Fee Fund as follows: (i) Fifty percent to the county treasurer of each county, amounts in the same proportion as the most recent allocation received by each county from the Highway Allocation Fund; and (ii) fifty percent to the treasurer of each municipality, amounts in the same proportion as the most recent allocation received by each municipality from the Highway Allocation Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(b) Funds from the Motor Vehicle Fee Fund shall be considered local revenue available for matching state sources.

(c) All receipts by counties and municipalities from the Motor Vehicle Fee Fund shall be used for road, bridge, and street purposes.

(7) For purposes of subdivisions (4)(a), (b), (c), and (f) of this section, automobiles or trucks includes all trucks and combinations of trucks or truck-tractors, except those trucks, trailers, or semitrailers registered under section 60-3,198, and the fee is based on the gross vehicle weight rating as reported by the manufacturer.

(8) Current model year vehicles are designated as first-year motor vehicles for purposes of the schedules.

(9) When a motor vehicle is registered which is newer than the current model year by the manufacturer's designation, the motor vehicle is subject to the initial motor vehicle fee for six registration periods.

(10) Assembled vehicles other than assembled, reconstructed-designated, or replica-designated automobiles shall follow the schedules for the motor vehicle body type.

Source: Laws 2005, LB 274, § 190; Laws 2007, LB286, § 55; Laws 2010, LB650, § 29; Laws 2011, LB289, § 23; Laws 2012, LB801, § 91; Laws 2013, LB207, § 5; Laws 2015, LB231, § 18; Laws 2018, LB909, § 68.

Effective date April 12, 2018.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,191 Alternative fuel; fee.

In addition to any other fee required under the Motor Vehicle Registration Act, a fee for registration of each motor vehicle powered by an alternative fuel shall be charged. The fee shall be seventy-five dollars. The fee shall be collected

by the county treasurer and remitted to the State Treasurer for credit to the Highway Trust Fund.

Source: Laws 2011, LB289, § 24.

60-3,193.01 International Registration Plan; adopted.

For purposes of the Motor Vehicle Registration Act, the International Registration Plan is adopted and incorporated by reference as the plan existed on January 1, 2018.

Source: Laws 2008, LB756, § 10; Laws 2009, LB331, § 4; Laws 2010, LB805, § 2; Laws 2011, LB212, § 3; Laws 2012, LB751, § 14; Laws 2013, LB35, § 2; Laws 2014, LB776, § 3; Laws 2015, LB313, § 3; Laws 2016, LB929, § 5; Laws 2017, LB263, § 55; Laws 2018, LB909, § 69.

Effective date April 12, 2018.

60-3,198 Fleet of vehicles in interjurisdiction commerce; registration; exception; application; fees; temporary authority; evidence of registration; proportional registration; removal from fleet; effect; unladen-weight registration; trip permit; fee.

(1) Any owner engaged in operating a fleet of apportionable vehicles in this state in interjurisdiction commerce may, in lieu of registration of such apportionable vehicles under the general provisions of the Motor Vehicle Registration Act, register and license such fleet for operation in this state by filing a statement and the application required by section 60-3,203 with the Division of Motor Carrier Services of the department. The statement shall be in such form and contain such information as the division requires, declaring the total mileage operated by such vehicles in all jurisdictions and in this state during the preceding year and describing and identifying each such apportionable vehicle to be operated in this state during the ensuing license year. Upon receipt of such statement and application, the division shall determine the total fee payment, which shall be equal to the amount of fees due pursuant to section 60-3,203 and the amount obtained by applying the formula provided in section 60-3,204 to a fee of thirty-two dollars per ton based upon gross vehicle weight of the empty weights of a truck or truck-tractor and the empty weights of any trailer or combination thereof with which it is to be operated in combination at any one time plus the weight of the maximum load to be carried thereon at any one time, and shall notify the applicant of the amount of payment required to be made. Mileage operated in noncontracting reciprocity jurisdictions by apportionable vehicles based in Nebraska shall be applied to the portion of the formula for determining the Nebraska jurisdiction fleet distance.

Temporary authority which permits the operation of a fleet or an addition to a fleet in this state while the application is being processed may be issued upon application to the division if necessary to complete processing of the application.

Upon completion of such processing and receipt of the appropriate fees, the division shall issue to the applicant a sufficient number of distinctive registration certificates which provide a list of the jurisdictions in which the apportionable vehicle has been apportioned, the weight for which registered, and such other evidence of registration for display on the apportionable vehicle as the division determines appropriate for each of the apportionable vehicles of his or

her fleet, identifying it as a part of an interjurisdiction fleet proportionately registered. All fees received as provided in this section shall be remitted to the State Treasurer for credit to the Motor Carrier Services Division Distributive Fund.

The apportionable vehicles so registered shall be exempt from all further registration and license fees under the Motor Vehicle Registration Act for movement or operation in the State of Nebraska except as provided in section 60-3,203. The proportional registration and licensing provision of this section shall apply to apportionable vehicles added to such fleets and operated in this state during the license year except with regard to permanent license plates issued under section 60-3,203.

The right of applicants to proportional registration under this section shall be subject to the terms and conditions of any reciprocity agreement, contract, or consent made by the division.

When a nonresident fleet owner has registered his or her apportionable vehicles, his or her apportionable vehicles shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce when the jurisdiction of base registration for such fleet accords the same consideration for fleets with a base registration in Nebraska. Each apportionable vehicle of a fleet registered by a resident of Nebraska shall be considered as fully registered for both interjurisdiction and intrajurisdiction commerce.

(2) Mileage proportions for interjurisdiction fleets not operated in this state during the preceding year shall be determined by the division upon the application of the applicant on forms to be supplied by the division which shall show the operations of the preceding year in other jurisdictions and estimated operations in Nebraska or, if no operations were conducted the previous year, a full statement of the proposed method of operation.

(3) Any owner complying with and being granted proportional registration shall preserve the records on which the application is made for a period of three years following the current registration year. Upon request of the division, the owner shall make such records available to the division at its office for audit as to accuracy of computation and payments or pay the costs of an audit at the home office of the owner by a duly appointed representative of the division if the office where the records are maintained is not within the State of Nebraska. The division may enter into agreements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner. All payments received to cover the costs of an audit shall be remitted by the division to the State Treasurer for credit to the Motor Carrier Division Cash Fund. No deficiency shall be assessed and no claim for credit shall be allowed for any license registration year for which records on which the application was made are no longer required to be maintained.

(4) If the division claims that a greater amount of fee is due under this section than was paid, the division shall notify the owner of the additional amount claimed to be due. The owner may accept such claim and pay the amount due, or he or she may dispute the claim and submit to the division any information which he or she may have in support of his or her position. If the dispute cannot otherwise be resolved within the division, the owner may petition for an appeal of the matter. The director shall appoint a hearing officer who shall hear the dispute and issue a written decision. Any appeal shall be in accordance with the Administrative Procedure Act. Upon expiration of the time for perfecting an

appeal if no appeal is taken or upon final judicial determination if an appeal is taken, the division shall deny the owner the right to further registration for a fleet license until the amount finally determined to be due, together with any costs assessed against the owner, has been paid.

(5) Every applicant who licenses any apportionable vehicles under this section and section 60-3,203 shall have his or her registration certificates issued only after all fees under such sections are paid and, if applicable, proof has been furnished of payment, in the form prescribed by the director as directed by the United States Secretary of the Treasury, of the federal heavy vehicle use tax imposed by 26 U.S.C. 4481 of the Internal Revenue Code as defined in section 49-801.01.

(6)(a) In the event of the transfer of ownership of any registered apportionable vehicle, (b) in the case of loss of possession because of fire, theft, or wrecking, junking, or dismantling of any registered apportionable vehicle, (c) when a salvage branded certificate of title is issued for any registered apportionable vehicle, (d) whenever a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) upon trade-in or surrender of a registered apportionable vehicle under a lease, or (f) in case of a change in the situs of a registered apportionable vehicle to a location outside of this state, its registration shall expire, except that if the registered owner or lessee applies to the division after such transfer or loss of possession and accompanies the application with a fee of one dollar and fifty cents, he or she may have any remaining credit of vehicle fees and taxes from the previously registered apportionable vehicle applied toward payment of any vehicle fees and taxes due and owing on another registered apportionable vehicle. If such registered apportionable vehicle has a greater gross vehicle weight than that of the previously registered apportionable vehicle, the registered owner or lessee of the registered apportionable vehicle shall additionally pay only the registration fee for the increased gross vehicle weight for the remaining months of the registration year based on the factors determined by the division in the original fleet application.

(7) Whenever a Nebraska-based fleet owner files an application with the division to delete a registered apportionable vehicle from a fleet of registered apportionable vehicles (a) because of a transfer of ownership of the registered apportionable vehicle, (b) because of loss of possession due to fire, theft, or wrecking, junking, or dismantling of the registered apportionable vehicle, (c) because a salvage branded certificate of title is issued for the registered apportionable vehicle, (d) because a type or class of registered apportioned vehicle is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated or towed on the public roads and no longer subject to registration fees and taxes, (e) because of a trade-in or surrender of the registered apportionable vehicle under a lease, or (f) because of a change in the situs of the registered apportionable vehicle to a location outside of this state, the registered owner may, by returning the registration certificate or certificates and such other evidence of registration used by the division or, if such certificate or certificates or such other evidence of registration is unavailable, then by making an affidavit to the division of such transfer or loss, receive a refund of that portion of the unused registration fee based upon the number of unexpired months remaining in the registration year from the date of transfer or loss. No refund shall be allowed for any fees paid under section 60-3,203.

When such apportionable vehicle is transferred or lost within the same month as acquired, no refund shall be allowed for such month. Such refund may be in the form of a credit against any registration fees that have been incurred or are, at the time of the refund, being incurred by the registered apportionable vehicle owner. The Nebraska-based fleet owner shall make a claim for a refund under this subsection within the registration period or shall be deemed to have forfeited his or her right to the refund.

(8) In case of addition to the registered fleet during the registration year, the owner engaged in operating the fleet shall pay the proportionate registration fee from the date the vehicle was placed into service or, if the vehicle was previously registered, the date the prior registration expired or the date Nebraska became the base jurisdiction for the fleet, whichever is first, for the remaining balance of the registration year. The fee for any permanent license plate issued for such addition pursuant to section 60-3,203 shall be the full fee required by such section, regardless of the number of months remaining in the license year.

(9) In lieu of registration under subsections (1) through (8) of this section, the title holder of record may apply to the division for special registration, to be known as an unladen-weight registration, for any commercial motor vehicle or combination of vehicles which have been registered to a Nebraska-based fleet owner within the current or previous registration year. Such registration shall be valid only for a period of thirty days and shall give no authority to operate the vehicle except when empty. The fee for such registration shall be twenty dollars for each vehicle, which fee shall be remitted to the State Treasurer for credit to the Highway Trust Fund. The issuance of such permits shall be governed by section 60-3,179.

(10) Any person may, in lieu of registration under subsections (1) through (8) of this section or for other jurisdictions as approved by the director, purchase a trip permit for any nonresident truck, truck-tractor, bus, or truck or truck-tractor combination. A trip permit shall be issued before any person required to obtain a trip permit enters this state with such vehicle. The trip permit shall be issued by the director through Internet sales from the department's web site. The trip permit shall be valid for a period of seventy-two hours. The fee for the trip permit shall be twenty-five dollars for each truck, truck-tractor, bus, or truck or truck-tractor combination. The fee collected by the director shall be remitted to the State Treasurer for credit to the Highway Cash Fund.

Source: Laws 2005, LB 274, § 198; Laws 2008, LB756, § 15; Laws 2009, LB331, § 5; Laws 2012, LB751, § 15; Laws 2013, LB250, § 1; Laws 2016, LB666, § 2; Laws 2018, LB177, § 2.
Effective date July 19, 2018.

Cross References

Administrative Procedure Act, see section 84-920.

60-3,202 Registration fees; collection and distribution; procedure; Motor Vehicle Tax Fund; created; use; investment.

(1) As registration fees are received by the Division of Motor Carrier Services of the department pursuant to section 60-3,198, the division shall remit the fees to the State Treasurer, less a collection fee of three percent of thirty percent of the registration fees collected. The collection fee shall be credited to the Department of Revenue Property Assessment Division Cash Fund. The State

Treasurer shall credit the remainder of the thirty percent of the fees collected to the Motor Vehicle Tax Fund and the remaining seventy percent of the fees collected to the Highway Trust Fund.

(2) On or before the last day of each quarter of the calendar year, the State Treasurer shall distribute all funds in the Motor Vehicle Tax Fund to the county treasurer of each county in the same proportion as the number of original motor vehicle registrations in each county bears to the total of all original registrations within the state in the registration year immediately preceding.

(3) Upon receipt of motor vehicle tax funds from the State Treasurer, the county treasurer shall distribute such funds to taxing agencies within the county in the same proportion that the levy of each such taxing agency bears to the total of such levies of all taxing agencies in the county.

(4) In the event any taxing district has been annexed, merged, dissolved, or in any way absorbed into another taxing district, any apportionment of motor vehicle tax funds to which such taxing district would have been entitled shall be apportioned to the successor taxing district which has assumed the functions of the annexed, merged, dissolved, or absorbed taxing district.

(5) On or before March 1 of each year, the department shall furnish to the State Treasurer a tabulation showing the total number of original motor vehicle registrations in each county for the immediately preceding calendar year, which shall be the basis for computing the distribution of motor vehicle tax funds as provided in subsection (2) of this section.

(6) The Motor Vehicle Tax Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2005, LB 274, § 202; Laws 2007, LB334, § 11; Laws 2012, LB801, § 92; Laws 2016, LB977, § 12.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,205 Registration certificate; disciplinary actions; director; powers; procedure.

(1)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act:

(i) If the applicant or certificate holder has had his or her license issued under the International Fuel Tax Agreement Act revoked or the director refused to issue or refused to renew such license; or

(ii) If the applicant or certificate holder is in violation of sections 75-392 to 75-399.

(b) Prior to taking action under this section, the director shall notify and advise the applicant or certificate holder of the proposed action and the reasons for such action in writing, by regular United States mail, to his or her last-known business address as shown on the application for the certificate or renewal. The notice shall also include an advisement of the procedures in subdivision (c) of this subsection.

(c) The applicant or certificate holder may, within thirty days after the date of the mailing of the notice, petition the director for a hearing to contest the proposed action. The hearing shall be commenced in accordance with the rules

and regulations adopted and promulgated by the department. If a petition is filed, the director shall, within twenty days after receipt of the petition, set a hearing date at which the applicant or certificate holder may show cause why the proposed action should not be taken. The director shall give the applicant or certificate holder reasonable notice of the time and place of the hearing. If the director's decision is adverse to the applicant or certificate holder, the applicant or certificate holder may appeal the decision in accordance with the Administrative Procedure Act.

(d) Except as provided in subsections (2) and (3) of this section, the filing of the petition shall stay any action by the director until a hearing is held and a final decision and order is issued.

(e) Except as provided in subsections (2) and (3) of this section, if no petition is filed at the expiration of thirty days after the date on which the notification was mailed, the director may take the proposed action described in the notice.

(f) If, in the judgment of the director, the applicant or certificate holder has complied with or is no longer in violation of the provisions for which the director took action under this subsection, the director may reinstate the registration certificate without delay.

(2)(a) The director may suspend, revoke, cancel, or refuse to issue or renew a registration certificate under the International Registration Plan Act or a license under the International Fuel Tax Agreement Act if the applicant, licensee, or certificate holder has issued to the department a check or draft which has been returned because of insufficient funds, no funds, or a stop-payment order. The director may take such action no sooner than seven days after the written notice required in subdivision (1)(b) of this section has been provided. Any petition to contest such action filed pursuant to subdivision (1)(c) of this section shall not stay such action of the director.

(b) If the director takes an action pursuant to this subsection, the director shall reinstate the registration certificate or license without delay upon the payment of certified funds by the applicant, licensee, or certificate holder for any fees due and reasonable administrative costs, not to exceed twenty-five dollars, incurred in taking such action.

(c) The rules, regulations, and orders of the director and the department that pertain to hearings commenced in accordance with this section and that are in effect prior to March 17, 2006, shall remain in effect, unless changed or eliminated by the director or the department, except for those portions involving a stay upon the filing of a petition to contest any action taken pursuant to this subsection, in which case this subsection shall supersede those provisions.

(3) Any person who receives notice from the director of action taken pursuant to subsection (1) or (2) of this section shall, within three business days, return such registration certificate and license plates to the department as provided in this section. If any person fails to return the registration certificate and license plates to the department, the department shall notify the Nebraska State Patrol that any such person is in violation of this section.

Source: Laws 2005, LB 274, § 205; Laws 2006, LB 853, § 5; Laws 2007, LB358, § 10; Laws 2009, LB331, § 6; Laws 2012, LB751, § 16.

Cross References

Administrative Procedure Act, see section 84-920.

International Fuel Tax Agreement Act, see section 66-1401.

60-3,209 Snowmobiles; registration; application.

Application for registration shall be made to the county treasurer in such form as the director prescribes and shall state the name and address of the applicant, state a description of the snowmobile, including color, manufacturer, and identification number, and be signed by at least one owner. Application forms shall be made available through the county treasurer's office of each county in this state. Upon receipt of the application and the appropriate fee as provided in section 60-3,210, the snowmobile shall be registered by the county treasurer and a validation decal shall be provided which shall be affixed to the upper half of the snowmobile in such manner as the director prescribes. Snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be exempt from affixing validation decals to the snowmobile but are required to carry a valid validation decal with the snowmobile at all times. Application for registration shall be made within fifteen days after the date of purchase.

Source: Laws 2005, LB 274, § 209; Laws 2012, LB801, § 93.

60-3,217 Snowmobiles; fees; disposition.

(1) The county treasurers shall act as agents for the department in the collection of snowmobile registration fees. Twenty-five cents from the funds collected for each such registration shall be retained by the county.

(2) The remaining amount of the fees from registration of snowmobiles shall be remitted to the State Treasurer who shall credit twenty-five percent to the General Fund and seventy-five percent to the Nebraska Snowmobile Trail Cash Fund.

Source: Laws 2005, LB 274, § 217; Laws 2012, LB801, § 94.

60-3,218 Nebraska Snowmobile Trail Cash Fund; created; use; investment; Game and Parks Commission; establish rules and regulations.

(1) There is hereby created the Nebraska Snowmobile Trail Cash Fund into which shall be deposited the portion of the fees collected from snowmobile registration as provided in section 60-3,217.

(2) The Game and Parks Commission shall use the money in the Nebraska Snowmobile Trail Cash Fund for the operation, maintenance, enforcement, planning, establishment, and marking of snowmobile trails throughout the state and for the acquisition by purchase or lease of real property to carry out the provisions of this section.

(3) The commission shall establish rules and regulations pertaining to the use and maintenance of snowmobile trails.

(4) Transfers may be made from the Nebraska Snowmobile Trail Cash Fund to the General Fund at the direction of the Legislature. Any money in the Nebraska Snowmobile Trail Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer the unobligated June 30, 2017, balance in the Nebraska Snowmobile Trail Cash Fund to the General Fund on or before

July 31, 2017, on such date as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 2005, LB 274, § 218; Laws 2009, First Spec. Sess., LB3, § 35; Laws 2017, LB331, § 27.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,221 Towing of trailers; restrictions; section; how construed.

(1) Except as otherwise provided in the Motor Vehicle Registration Act:

(a) A cabin trailer shall only be towed by a properly registered:

(i) Passenger car;

(ii) Commercial motor vehicle or apportionable vehicle;

(iii) Farm truck;

(iv) Local truck;

(v) Minitruck;

(vi) Recreational vehicle; or

(vii) Bus;

(b) A utility trailer shall only be towed by:

(i) A properly registered passenger car;

(ii) A properly registered commercial motor vehicle or apportionable vehicle;

(iii) A properly registered farm truck;

(iv) A properly registered local truck;

(v) A properly registered minitruck;

(vi) A properly registered recreational vehicle;

(vii) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(viii) A properly registered well-boring apparatus;

(ix) A dealer-plated vehicle;

(x) A personal-use dealer-plated vehicle;

(xi) A properly registered bus; or

(xii) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;

(c) A farm trailer shall only be towed by a properly registered:

(i) Passenger car;

(ii) Commercial motor vehicle;

(iii) Farm truck; or

(iv) Minitruck;

(d) A commercial trailer shall only be towed by:

(i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;

(ii) A properly registered local truck;

- (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus;
 - (viii) A properly registered farm truck; or
 - (ix) A properly registered public power district motor vehicle or, beginning January 1, 2023, a properly registered metropolitan utilities district motor vehicle;
- (e) A fertilizer trailer shall only be towed by a properly registered:
- (i) Passenger car;
 - (ii) Commercial motor vehicle or apportionable vehicle;
 - (iii) Farm truck; or
 - (iv) Local truck;
- (f) A pole and cable reel trailer shall only be towed by a properly registered:
- (i) Commercial motor vehicle or apportionable vehicle;
 - (ii) Local truck; or
 - (iii) Public power district motor vehicle or, beginning January 1, 2023, metropolitan utilities district motor vehicle;
- (g) A dealer-plated trailer shall only be towed by:
- (i) A dealer-plated vehicle;
 - (ii) A properly registered passenger car;
 - (iii) A properly registered commercial motor vehicle or apportionable vehicle;
 - (iv) A properly registered farm truck;
 - (v) A properly registered minitruck; or
 - (vi) A personal-use dealer-plated vehicle; and
- (h) Trailers registered pursuant to section 60-3,198 as part of an apportioned fleet shall only be towed by:
- (i) A properly registered motor vehicle which is engaged in soil and water conservation pursuant to section 60-3,149;
 - (ii) A properly registered local truck;
 - (iii) A properly registered well-boring apparatus;
 - (iv) A properly registered commercial motor vehicle or apportionable vehicle;
 - (v) A dealer-plated vehicle;
 - (vi) A personal-use dealer-plated vehicle;
 - (vii) A properly registered bus; or
 - (viii) A properly registered farm truck.

(2) Nothing in this section shall be construed to waive compliance with the Nebraska Rules of the Road or Chapter 75.

(3) Nothing in this section shall be construed to prohibit any motor vehicle or trailer from displaying dealer license plates or In Transit stickers authorized by section 60-376.

Source: Laws 2007, LB349, § 2; Laws 2011, LB212, § 4; Laws 2016, LB783, § 13; Laws 2018, LB909, § 70.
Effective date April 12, 2018.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3,223 Nebraska 150 Sesquicentennial Plates; design.

(1) The department, in consultation with the Nebraska Sesquicentennial Commission and other interested persons, shall design license plates to be known as Nebraska 150 Sesquicentennial Plates to celebrate and commemorate the one-hundred-fiftieth year of statehood for Nebraska. The department shall ensure that the design reflects support for the sesquicentennial of the State of Nebraska.

(2) The design shall be selected on the basis of (a) enhancing the marketability of the plates to supporters of the sesquicentennial and (b) limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to seven characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118.

Source: Laws 2015, LB220, § 7.

60-3,224 Nebraska 150 Sesquicentennial Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2015, and ending December 31, 2022, a person may apply to the department for Nebraska 150 Sesquicentennial Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) Each application for initial issuance or renewal of Nebraska 150 Sesquicentennial Plates shall be accompanied by a fee of seventy dollars. Fees collected pursuant to this section shall be remitted to the State Treasurer. The State Treasurer shall credit fifteen percent of the fee for initial issuance and renewal of plates under subsection (3) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and eighty-five percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund. The State Treasurer shall credit forty-three percent of the fee for initial issuance and renewal of plates under

subsection (4) of section 60-3,223 to the Department of Motor Vehicles Cash Fund and fifty-seven percent of such fee to the Nebraska 150 Sesquicentennial Plate Proceeds Fund.

(3) Until January 1, 2019, when the department receives an application for Nebraska 150 Sesquicentennial Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Nebraska 150 Sesquicentennial Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Nebraska 150 Sesquicentennial Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. The State Treasurer shall credit fees collected pursuant to this subsection to the Department of Motor Vehicles Cash Fund.

(5) Nebraska 150 Sesquicentennial Plates shall not be issued or renewed beginning on January 1, 2023.

Source: Laws 2015, LB220, § 8; Laws 2017, LB263, § 56.

60-3,225 Nebraska 150 Sesquicentennial Plate Proceeds Fund; created; investment; use.

(1) The Nebraska 150 Sesquicentennial Plate Proceeds Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) If the cost of manufacturing Nebraska 150 Sesquicentennial Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Nebraska 150 Sesquicentennial Plate Proceeds Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of such plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Nebraska 150 Sesquicentennial Plate Proceeds Fund as provided in section 60-3,224.

(3) Until July 1, 2018, the Nebraska 150 Sesquicentennial Plate Proceeds Fund shall be used by the Nebraska Sesquicentennial Commission for purposes of carrying out section 81-8,310. Beginning on July 1, 2018, the State Treasurer

shall transfer any money in the fund at the end of each calendar quarter to the Historical Society Fund.

Source: Laws 2015, LB220, § 9.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-3,226 Mountain Lion Conservation Plates; design.

(1) The department shall design license plates to be known as Mountain Lion Conservation Plates. The department shall create designs reflecting support for the conservation of the mountain lion population. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by October 1, 2016. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,227.

(2) One type of Mountain Lion Conservation Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Mountain Lion Conservation Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2016, LB474, § 9.

60-3,227 Mountain Lion Conservation Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning October 1, 2016, a person may apply to the department for Mountain Lion Conservation Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle, trailer, or semitrailer registered under section 60-3,198. An applicant receiving a Mountain Lion Conservation Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Mountain Lion Conservation Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Game and Parks Commission Educational Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Mountain Lion Conservation Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this

subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Game and Parks Commission Educational Fund.

(3) Until January 1, 2019, when the department receives an application for Mountain Lion Conservation Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered. Beginning January 1, 2019, when the department receives an application for Mountain Lion Conservation Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Mountain Lion Conservation Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle, trailer, or semitrailer. If Mountain Lion Conservation Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle, trailer, or semitrailer bearing Mountain Lion Conservation Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Mountain Lion Conservation Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Game and Parks Commission Educational Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Mountain Lion Conservation Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Game and Parks Commission Educational Fund.

Source: Laws 2016, LB474, § 10; Laws 2017, LB263, § 57.

60-3,228 Metropolitan utilities district license plates; public power district license plates; application; issuance.

(1)(a) This subsection applies until January 1, 2023.

(b) Upon application and payment of the fees required pursuant to this section and section 60-3,229, each motor vehicle and trailer operated by a public power district shall be issued permanent public power district license plates. The public power district license plates shall be issued by the county in which the public power district is headquartered.

(c) Public power district vehicles shall display a distinctive license plate provided by the department pursuant to this section.

(d) Any license plate issued pursuant to this section shall remain affixed to the front and rear of the motor vehicle and to the rear of the trailer as long as the public power district vehicle is registered pursuant to this section by the owner or lessor making the original application pursuant to subdivision (1)(b) of this section.

(2)(a) This subsection applies beginning on January 1, 2023.

(b) Upon application and payment of the fees required pursuant to this section and section 60-3,229, each motor vehicle and trailer operated by a metropolitan utilities district or a public power district shall be issued permanent metropolitan utilities district or public power district license plates. The metropolitan utilities district or public power district license plates shall be issued by the county in which the metropolitan utilities district or public power district is headquartered.

(c) Metropolitan utilities district vehicles or public power district vehicles shall display a distinctive license plate provided by the department pursuant to this section.

(d) Any license plate issued pursuant to this section shall remain affixed to the front and rear of the motor vehicle and to the rear of the trailer as long as the metropolitan utilities district vehicle or public power district vehicle is registered pursuant to this section by the owner or lessor making the original application pursuant to subdivision (2)(b) of this section.

Source: Laws 2016, LB783, § 11; Laws 2018, LB909, § 71.
Effective date April 12, 2018.

60-3,229 Metropolitan utilities district license plates; public power district license plates; registration fee.

(1) This subsection applies until January 1, 2023. The registration fee for a public power district motor vehicle shall be the fee provided for commercial motor vehicles in section 60-3,147. The registration fee for a public power district trailer shall be the fee provided for a trailer in section 60-3,151.

(2) This subsection applies beginning January 1, 2023. The registration fee for a metropolitan utilities district motor vehicle or public power district motor vehicle shall be the fee provided for commercial motor vehicles in section 60-3,147. The registration fee for a metropolitan utilities district trailer or public power district trailer shall be the fee provided for a trailer in section 60-3,151.

Source: Laws 2016, LB783, § 12; Laws 2017, LB263, § 58; Laws 2018, LB909, § 72.
Effective date April 12, 2018.

60-3,230 Breast Cancer Awareness Plates; design.

(1) The department shall design license plates to be known as Breast Cancer Awareness Plates. The design shall include a pink ribbon and the words “early detection saves lives” along the bottom of the plate.

(2) The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate when it is designed.

(3) One type of plate under this section shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(4) One type of plate under this section shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2016, LB977, § 9.

60-3,231 Breast Cancer Awareness Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2017, a person may apply to the department for Breast Cancer Awareness Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle, trailer, or semitrailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a plate under this section for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers.

(2) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Breast Cancer Awareness Plates shall be accompanied by a fee of forty dollars. No such additional fee shall be due for the initial issuance or renewal of alphanumeric Breast Cancer Awareness Plates. County treasurers collecting fees pursuant to this subsection shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee to the Highway Trust Fund and seventy-five percent of the fee to the Department of Motor Vehicles Cash Fund.

(3) Until January 1, 2019, when the department receives an application for Breast Cancer Awareness Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Breast Cancer Awareness Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue plates under this section in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Breast Cancer Awareness Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Breast Cancer Awareness Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at

the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 2016, LB977, § 10; Laws 2017, LB263, § 59.

60-3,232 Choose Life License Plates; design.

(1) The department shall design license plates to be known as Choose Life License Plates. The department shall create designs reflecting support for the protection of Nebraska's children. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate beginning January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,233.

(2) One type of Choose Life License Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Choose Life License Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2017, LB46, § 7.

60-3,233 Choose Life License Plates; application; form; fee; transfer; procedure; fee.

(1) Beginning January 1, 2018, a person may apply to the department for Choose Life License Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Choose Life License Plate for a farm truck with a gross weight of over sixteen tons or a commercial truck or truck-tractor with a gross weight of five tons or over shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance of alphanumeric Choose Life License Plates shall be accompanied by a fee of five dollars. An application for renewal of such plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program, 42 U.S.C. 601, et seq.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Choose Life License Plates shall be accompanied by a fee

of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

(3) When the department receives an application for Choose Life License Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. The county treasurer shall issue Choose Life License Plates in lieu of regular license plates when the applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Choose Life License Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Choose Life License Plates may apply to the county treasurer to have such plates transferred to a motor vehicle other than the vehicle for which such plates were originally purchased if such vehicle is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other vehicle which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Choose Life License Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Choose Life License Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Health and Human Services Cash Fund to supplement federal funds available to the Department of Health and Human Services for the Temporary Assistance for Needy Families program.

Source: Laws 2017, LB46, § 8.

60-3,234 Native American Cultural Awareness and History Plates; design requirements.

(1) The department, in consultation with the Commission on Indian Affairs, shall design license plates to be known as Native American Cultural Awareness and History Plates. The design shall reflect the unique culture and history of Native American tribes historically and currently located in Nebraska. The design shall be selected on the basis of limiting the manufacturing cost of each plate to an amount less than or equal to the amount charged for license plates pursuant to section 60-3,102. The department shall make applications available for this type of plate by January 1, 2018. The department may adopt and promulgate rules and regulations to carry out this section and section 60-3,235.

(2) One type of Native American Cultural Awareness and History Plates shall be alphanumeric plates. The department shall:

- (a) Assign a designation up to five characters; and
- (b) Not use a county designation.

(3) One type of Native American Cultural Awareness and History Plates shall be personalized message plates. Such plates shall be issued subject to the same conditions specified for personalized message license plates in section 60-3,118, except that a maximum of five characters may be used.

Source: Laws 2017, LB263, § 60.

60-3,235 Native American Cultural Awareness and History Plates; application; form; fee; delivery; transfer; procedure; fee.

(1) Beginning January 1, 2018, a person may apply to the department for Native American Cultural Awareness and History Plates in lieu of regular license plates on an application prescribed and provided by the department for any motor vehicle or trailer, except for a motor vehicle or trailer registered under section 60-3,198. An applicant receiving a Native American Cultural Awareness and History Plate for a farm truck with a gross weight of over sixteen tons shall affix the appropriate tonnage decal to the plate. The department shall make forms available for such applications through the county treasurers. The license plates shall be issued upon payment of the license fee described in subsection (2) of this section.

(2)(a) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of alphanumeric Native American Cultural Awareness and History Plates shall be accompanied by a fee of five dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit five dollars of the fee to the Native American Scholarship and Leadership Fund.

(b) In addition to all other fees required for registration under the Motor Vehicle Registration Act, each application for initial issuance or renewal of personalized message Native American Cultural Awareness and History Plates shall be accompanied by a fee of forty dollars. County treasurers collecting fees pursuant to this subdivision shall remit them to the State Treasurer. The State Treasurer shall credit twenty-five percent of the fee for initial issuance and renewal of such plates to the Department of Motor Vehicles Cash Fund and seventy-five percent of the fee to the Native American Scholarship and Leadership Fund.

(3) Until January 1, 2019, when the department receives an application for Native American Cultural Awareness and History Plates, the department shall deliver the plates to the county treasurer of the county in which the motor vehicle or trailer is registered. Beginning January 1, 2019, when the department receives an application for Native American Cultural Awareness and History Plates, the department may deliver the plates and registration certificate to the applicant by United States mail or to the county treasurer of the county in which the motor vehicle or trailer is registered and the delivery of the plates and registration certificate shall be made through a secure process and system. The county treasurer or the department shall issue Native American Cultural Awareness and History Plates in lieu of regular license plates when the

applicant complies with the other provisions of the Motor Vehicle Registration Act for registration of the motor vehicle or trailer. If Native American Cultural Awareness and History Plates are lost, stolen, or mutilated, the licensee shall be issued replacement license plates upon request pursuant to section 60-3,157.

(4) The owner of a motor vehicle or trailer bearing Native American Cultural Awareness and History Plates may apply to the county treasurer to have such plates transferred to a motor vehicle or trailer other than the motor vehicle or trailer for which such plates were originally purchased if such motor vehicle or trailer is owned by the owner of the plates. The owner may have the unused portion of the fee for the plates credited to the other motor vehicle or trailer which will bear the plates at the rate of eight and one-third percent per month for each full month left in the registration period. Application for such transfer shall be accompanied by a fee of three dollars. Fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) If the cost of manufacturing Native American Cultural Awareness and History Plates at any time exceeds the amount charged for license plates pursuant to section 60-3,102, any money to be credited to the Native American Scholarship and Leadership Fund shall instead be credited first to the Highway Trust Fund in an amount equal to the difference between the manufacturing costs of Native American Cultural Awareness and History Plates and the amount charged pursuant to section 60-3,102 with respect to such plates and the remainder shall be credited to the Native American Scholarship and Leadership Fund.

Source: Laws 2017, LB263, § 61.

ARTICLE 4

MOTOR VEHICLE OPERATORS' LICENSES

(e) GENERAL PROVISIONS

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- 60-498.01. Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.
- 60-498.02. Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restriction on operation of motor vehicle.
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- 60-498.04. License revocation; appeal; notice of judgment.
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- 60-4,118.02. Repealed. Laws 2017, LB644, § 21.
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- 60-4,144. Commercial driver's license; CLP-commercial learner's permit; applications; contents; application; demonstration of knowledge and skills; information and documentation required; verification.
- 60-4,144.01. Commercial drivers' licenses; certification required; medical examiner's certificate.
- 60-4,144.02. Commercial drivers' licenses; CLP-commercial learner's permit; medical examiner's certificate; department; duties; failure of driver to comply; department; duties.

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- 60-4,144.03. Temporary CLP-commercial learner's permit or commercial driver's license; issuance; renewal.
- 60-4,144.04. CLP-commercial learner's permit; precondition to issuance of commercial driver's license.
- 60-4,145. Repealed. Laws 2014, LB983, § 69.
- 60-4,146. Application; requirements of federal law; certification.
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- 60-4,147.03. Hazardous materials endorsement; application process.
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- 60-4,148.01. Commercial drivers' licenses; CLP-commercial learners' permits; electronic renewal and replacement; department; duties; applicant; requirements; renewal; fee and surcharge; delivery.
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- 60-4,149.01. Commercial drivers' licenses; law examination; exceptions; waiver.
- 60-4,149.02. Commercial drivers' licenses; driving skills examination; exemption for driver with military commercial motor vehicle experience; conditions and limitations; applicant; certification.
- 60-4,150. Commercial driver's license; CLP-commercial learner's permit; replacement; application; delivery.
- 60-4,151. Commercial driver's license; RCDL-restricted commercial driver's license; SEP-seasonal permit; CLP-commercial learner's permit; form.
- 60-4,153. Issuance of license; department; duties.
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- 60-4,156. Repealed. Laws 2014, LB983, § 69.
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- 60-4,167.01. Alcoholic liquor; disqualification decision; director; duties.
- 60-4,168. Disqualification; when.
- 60-4,168.01. Out-of-service order; violation; disqualification; when.
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- 60-4,171. Issuance of Class O or M operator's license; reinstatement of commercial driver's license or CLP-commercial learner's permit; when.
- 60-4,172. Nonresident licensee or permit holder; conviction within state; director; duties.

(j) STATE IDENTIFICATION CARDS

- 60-4,180. State identification card; issuance authorized; prior cards; invalid.
- 60-4,181. State identification cards; issuance; requirements; form; delivery; cancellation.

(k) POINT SYSTEM

- 60-4,182. Point system; offenses enumerated.
- 60-4,184. Revocation of license; notice; failure to return license; procedure; penalty; appeal; effect.

(I) VETERAN NOTATION

Section
60-4,189. Operator's license; state identification card; notation of word "veteran"; Department of Motor Vehicles; duties; replacement license or card.

(e) GENERAL PROVISIONS

60-462 Act, how cited.

Sections 60-462 to 60-4,189 shall be known and may be cited as the Motor Vehicle Operator's License Act.

Source: Laws 1937, c. 141, § 31, p. 523; C.S.Supp.,1941, § 60-434; R.S.1943, § 60-402; R.S.1943, (1988), § 60-402; Laws 1989, LB 284, § 2; Laws 1989, LB 285, § 12; Laws 1990, LB 980, § 6; Laws 1991, LB 44, § 1; Laws 1993, LB 105, § 4; Laws 1993, LB 370, § 65; Laws 1993, LB 420, § 1; Laws 1994, LB 211, § 1; Laws 1995, LB 467, § 6; Laws 1996, LB 323, § 1; Laws 1997, LB 210, § 2; Laws 1997, LB 256, § 4; Laws 1998, LB 320, § 1; Laws 2001, LB 38, § 5; Laws 2001, LB 574, § 1; Laws 2003, LB 209, § 1; Laws 2003, LB 562, § 2; Laws 2005, LB 76, § 2; Laws 2006, LB 853, § 6; Laws 2007, LB415, § 1; Laws 2008, LB911, § 1; Laws 2011, LB158, § 1; Laws 2011, LB178, § 2; Laws 2011, LB215, § 1; Laws 2013, LB93, § 1; Laws 2014, LB983, § 2; Laws 2015, LB231, § 19; Laws 2016, LB311, § 1; Laws 2016, LB977, § 13; Laws 2018, LB629, § 1; Laws 2018, LB909, § 73.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB629, section 1, with LB909, section 73, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB629 became effective July 19, 2018.

60-462.01 Federal regulations; adopted.

For purposes of the Motor Vehicle Operator's License Act, the following federal regulations are adopted as Nebraska law as they existed on January 1, 2018:

The parts, subparts, and sections of Title 49 of the Code of Federal Regulations, as referenced in the Motor Vehicle Operator's License Act.

Source: Laws 2003, LB 562, § 20; Laws 2004, LB 560, § 36; Laws 2005, LB 76, § 3; Laws 2006, LB 853, § 7; Laws 2006, LB 1007, § 4; Laws 2007, LB239, § 4; Laws 2008, LB756, § 16; Laws 2009, LB331, § 7; Laws 2010, LB805, § 3; Laws 2011, LB178, § 3; Laws 2011, LB212, § 5; Laws 2012, LB751, § 17; Laws 2013, LB35, § 3; Laws 2014, LB776, § 4; Laws 2014, LB983, § 3; Laws 2015, LB313, § 4; Laws 2016, LB929, § 6; Laws 2017, LB263, § 62; Laws 2018, LB909, § 74.
Effective date April 12, 2018.

60-462.02 Legislative intent; director; department; powers and duties.

It is the intent of the Legislature that the department develop, implement, and maintain processes for the issuance of operators' licenses and state identification cards designed to protect the identity of applicants for and holders of such licenses and cards and reduce identity theft, fraud, forgery, and counterfeiting to the maximum extent possible with respect to such licenses and cards. The department shall adopt security and technology practices to enhance the

enrollment, production, data storage, and credentialing system of such licenses and cards in order to maximize the integrity of the process.

Source: Laws 2008, LB911, § 2; Laws 2009, LB331, § 8; Laws 2011, LB215, § 2.

60-463 Definitions, where found.

For purposes of the Motor Vehicle Operator's License Act, the definitions found in sections 60-463.01 to 60-478 shall be used.

Source: Laws 1989, LB 285, § 13; Laws 1993, LB 370, § 66; Laws 1993, LB 420, § 2; Laws 2001, LB 38, § 6; Laws 2007, LB415, § 2; Laws 2008, LB911, § 3; Laws 2014, LB983, § 4; Laws 2015, LB231, § 20; Laws 2016, LB311, § 2.

60-463.02 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 21; Laws 2018, LB909, § 75.
Effective date April 12, 2018.

60-464 Commercial driver's license, defined.

Commercial driver's license means an operator's license issued in accordance with the requirements of the Motor Vehicle Operator's License Act to an individual which authorizes such individual to operate a class of commercial motor vehicle.

Source: Laws 1989, LB 285, § 14; Laws 2014, LB983, § 5.

60-465 Commercial motor vehicle, defined.

(1) Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of eleven thousand seven hundred ninety-four kilograms or more (twenty-six thousand one pounds or more) inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight of more than four thousand five hundred thirty-six kilograms (ten thousand pounds);

(b) Has a gross vehicle weight rating or gross vehicle weight of eleven thousand seven hundred ninety-four or more kilograms (twenty-six thousand one pounds or more);

(c) Is designed to transport sixteen or more passengers, including the driver;
or

(d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under 49 C.F.R. part 172, subpart F.

(2) Commercial motor vehicle does not include:

(a) A covered farm vehicle;

(b) Any recreational vehicle as defined in section 60-347 or motor vehicle towing a cabin trailer as defined in sections 60-314 and 60-339;

(c) Any emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions which is equipped with audible and visual signals and operated by a public or volunteer fire department; or

(d) Any motor vehicle owned or operated by the United States Department of Defense or Nebraska National Guard when such motor vehicle is driven by persons identified in section 60-4,131.01.

Source: Laws 1989, LB 285, § 15; Laws 2005, LB 76, § 4; Laws 2005, LB 274, § 235; Laws 2006, LB 853, § 8; Laws 2006, LB 1007, § 5; Laws 2010, LB805, § 4; Laws 2014, LB983, § 6.

60-465.02 Covered farm vehicle, defined.

(1) Covered farm vehicle means a motor vehicle, including an articulated motor vehicle:

(a) That:

(i) Is traveling in the state in which the vehicle is registered or another state;

(ii) Is operated by:

(A) A farm owner or operator;

(B) A ranch owner or operator; or

(C) An employee or family member of an individual specified in subdivision (1)(a)(ii)(A) or (1)(a)(ii)(B) of this section;

(iii) Is transporting to or from a farm or ranch:

(A) Agricultural commodities;

(B) Livestock; or

(C) Machinery or supplies;

(iv) Except as provided in subsection (2) of this section, is not used in the operations of a for-hire motor carrier; and

(v) Is equipped with a special license plate or other designation by the state in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(b) That has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is:

(i) Less than twenty-six thousand one pounds; or

(ii) Twenty-six thousand one pounds or more and is traveling within the state or within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

(2) Covered farm vehicle includes a motor vehicle that meets the requirements of subsection (1) of this section, except for subdivision (1)(a)(iv) of this section, and:

- (a) Is operated pursuant to a crop share farm lease agreement;
- (b) Is owned by a tenant with respect to that agreement; and
- (c) Is transporting the landlord's portion of the crops under that agreement.

(3) Covered farm vehicle does not include:

(a) A combination of truck-tractor and semitrailer which is operated by a person under eighteen years of age; or

(b) A combination of truck-tractor and semitrailer which is used in the transportation of materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and which require the combination to be placarded under 49 C.F.R. part 172, subpart F.

Source: Laws 2014, LB983, § 7.

60-469 Gross vehicle weight rating (GVWR), defined.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

Source: Laws 1989, LB 285, § 19; Laws 2016, LB311, § 4.

60-469.01 Gross combination weight rating, defined.

Gross combination weight rating means the greater of (1) a value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard certification label required by the National Highway Traffic Safety Administration, or (2) the sum of the gross vehicle weight ratings or the gross vehicle weights of the power unit and the towed unit or units, or any combination thereof, that produces the highest value. Gross combination weight rating does not apply to a commercial motor vehicle if the power unit is not towing another vehicle.

Source: Laws 2016, LB311, § 3.

60-471 Motor vehicle, defined.

Motor vehicle means all vehicles propelled by any power other than muscular power. Motor vehicle does not include (1) bicycles as defined in section 60-611, (2) self-propelled chairs used by persons who are disabled, (3) farm tractors, (4) farm tractors used occasionally outside general farm usage, (5) road rollers, (6) vehicles which run only on rails or tracks, (7) electric personal assistive mobility devices as defined in section 60-618.02, and (8) off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, go-carts, riding lawn mowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663.

Source: Laws 1989, LB 285, § 21; Laws 1993, LB 370, § 68; Laws 2002, LB 1105, § 445; Laws 2010, LB650, § 30; Laws 2011, LB289, § 25; Laws 2012, LB1155, § 12; Laws 2015, LB95, § 7.

60-474 Operator's or driver's license, defined.

Operator's or driver's license shall mean any license or permit to operate a motor vehicle issued under the laws of this state, including:

- (1) Any replacement license or instruction permit;
- (2) The privilege of any person to drive a motor vehicle whether such person holds a valid license;
- (3) Any nonresident's operating privilege which shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the operation of a motor vehicle in this state by such person or the use in this state of a vehicle owned by such person;
- (4) An employment driving permit issued as provided by sections 60-4,129 and 60-4,130; and
- (5) A medical hardship driving permit issued as provided by sections 60-4,130.01 and 60-4,130.02.

Source: Laws 1989, LB 285, § 24; Laws 1993, LB 105, § 5; Laws 1993, LB 370, § 69; Laws 2014, LB777, § 2.

(f) PROVISIONS APPLICABLE TO ALL OPERATORS' LICENSES

60-479 Sections; applicability.

Sections 60-479.01 to 60-4,111.01, 60-4,113, 60-4,114, 60-4,115 to 60-4,118, and 60-4,182 to 60-4,189 shall apply to any operator's license subject to the Motor Vehicle Operator's License Act.

Source: Laws 1989, LB 285, § 29; Laws 1993, LB 370, § 72; Laws 1995, LB 467, § 7; Laws 1997, LB 210, § 3; Laws 1997, LB 256, § 5; Laws 2001, LB 38, § 10; Laws 2001, LB 574, § 2; Laws 2003, LB 209, § 2; Laws 2008, LB911, § 7; Laws 2011, LB215, § 3; Laws 2013, LB93, § 2; Laws 2014, LB983, § 8; Laws 2016, LB311, § 5.

60-479.01 Fraudulent document recognition training; criminal history record information check; lawful status check; cost.

(1) All persons handling source documents or engaged in the issuance of new, renewed, or reissued operators' licenses or state identification cards shall have periodic fraudulent document recognition training.

(2) All persons and agents of the department involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or who have the ability to affect information on such licenses or cards shall be subject to a criminal history record information check, including a check of prior employment references, and a lawful status check as required by 6 C.F.R. part 37, as such part existed on January 1, 2018. Such persons and agents shall provide fingerprints which shall be submitted to the Federal Bureau of Investigation. The bureau shall use its records for the criminal history record information check.

(3) Upon receipt of a request pursuant to subsection (2) of this section, the Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information concerning the applicant from federal repository

ries of such information and repositories of such information in other states, if authorized by federal law. The Nebraska State Patrol shall issue a report to the employing public agency that shall include the criminal history record information concerning the applicant. The cost of any background check shall be borne by the employer of the person or agent.

(4) Any person convicted of any disqualifying offense as provided in 6 C.F.R. part 37, as such part existed on January 1, 2018, shall not be involved in the recording of verified application information or verified operator's license and state identification card information, involved in the manufacture or production of licenses or cards, or involved in any capacity in which such person would have the ability to affect information on such licenses or cards. Any employee or prospective employee of the department shall be provided notice that he or she will undergo such criminal history record information check prior to employment or prior to any involvement with the issuance of operators' licenses or state identification cards.

Source: Laws 2008, LB911, § 8; Laws 2011, LB215, § 4; Laws 2012, LB751, § 18; Laws 2013, LB35, § 4; Laws 2014, LB776, § 5; Laws 2015, LB313, § 5; Laws 2016, LB929, § 7; Laws 2017, LB263, § 63; Laws 2018, LB909, § 76.
Effective date April 12, 2018.

60-480 Operators' licenses; classification.

(1) Operators' licenses issued by the department pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

(a) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;

(b) Class M license. The operator's license or endorsement on a Class O license, provisional operator's permit, learner's permit, school permit, or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

(c) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicle or any motor vehicle, except a motorcycle, on highways;

(d) CLP-commercial learner's permit. A permit which when carried with a Class O license authorizes an individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a CLP-commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid;

(e) RCDL-restricted commercial driver's license. The class of commercial driver's license which, when held with an annual seasonal permit, authorizes a seasonal commercial motor vehicle operator as defined in section 60-4,146.01 to operate any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of a farm-related or ranch-related service industry as defined in such section within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served as

provided in such section or any other motor vehicle, except a motorcycle, on highways;

(f) POP-provisional operator's permit. A motor vehicle operating permit with restrictions issued pursuant to section 60-4,120.01 to a person who is at least sixteen years of age but less than eighteen years of age which authorizes the person to operate any motor vehicle except a commercial motor vehicle or motorcycle;

(g) SCP-school permit. A permit issued to a student between fourteen years and two months of age and sixteen years of age for the purpose of driving in accordance with the requirements of section 60-4,124;

(h) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;

(i) LPD-learner's permit. A permit issued in accordance with the requirements of section 60-4,123 to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a licensed operator who is at least twenty-one years of age and who possesses a valid operator's license issued by this state or another state;

(j) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit;

(k) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130;

(l) IIP-ignition interlock permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, which is equipped with an ignition interlock device;

(m) SEP-seasonal permit. A permit issued to a person who holds a restricted commercial driver's license authorizing the person to operate a commercial motor vehicle, as prescribed by section 60-4,146.01, for no more than one hundred eighty consecutive days in any twelve-month period. The seasonal permit shall be valid and run from the date of original issuance of the permit for one hundred eighty days and from the date of annual revalidation of the permit; and

(n) MHP-medical hardship driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,130.01 and 60-4,130.02.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1989, LB 285, § 30; Laws 1990, LB 980, § 8; Laws 1993, LB 105, § 6; Laws 1993, LB 420, § 4; Laws 1998, LB 320, § 2; Laws 1999, LB 704, § 4; Laws 2001, LB 387, § 3; Laws 2005, LB 675, § 1; Laws 2008, LB736, § 1; Laws 2014, LB983, § 9; Laws 2018, LB909, § 77.

Effective date April 12, 2018.

60-483 Operator's license; numbering; records; abstracts of operating records; fees; information to United States Selective Service System; when; reciprocity agreement with foreign country.

(1) The director shall assign a distinguishing number to each operator's license issued and shall keep a record of the same which shall be open to public inspection by any person requesting inspection of such record who qualifies under section 60-2906 or 60-2907. Any person requesting such driver record information shall furnish to the Department of Motor Vehicles (a) verification of identity and purpose that the requester is entitled under section 60-2906 or 60-2907 to disclosure of the personal information in the record, (b) the name of the person whose record is being requested, and (c) when the name alone is insufficient to identify the correct record, the department may request additional identifying information. The department shall, upon request of any requester, furnish a certified abstract of the operating record of any person, in either hard copy or electronically, and shall charge the requester a fee of three dollars per abstract.

(2) The department shall remit any revenue generated under subsections (1) through (5) of this section to the State Treasurer, and the State Treasurer shall credit eight and one-third percent to the Department of Motor Vehicles Cash Fund, fifty-eight and one-third percent to the General Fund, and thirty-three and one-third percent to the Records Management Cash Fund.

(3) The director shall, upon receiving a request and an agreement from the United States Selective Service System to comply with requirements of this section, furnish driver record information to the United States Selective Service System to include the name, post office address, date of birth, sex, and social security number of licensees. The United States Selective Service System shall pay all costs incurred by the department in providing the information but shall not be required to pay any other fee required by law for information. No driver record information shall be furnished to the United States Selective Service System regarding any female, nor regarding any male other than those between the ages of seventeen years and twenty-six years. The information shall only be used in the fulfillment of the required duties of the United States Selective Service System and shall not be furnished to any other person.

(4) The director shall keep a record of all applications for operators' licenses that are disapproved with a brief statement of the reason for disapproval of the application.

(5) The director may establish a monitoring service which provides information on operating records that have changed due to any adjudicated traffic citation or administrative action. The director shall charge a fee of six cents per operating record searched pursuant to this section and the fee provided in subsection (1) of this section for each abstract returned as a result of the search.

(6) Driver record header information, including name, license number, date of birth, address, and physical description, from every driver record maintained by the department may be made available so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. Monthly updates, including all new records, may also be made available. There shall be a fee of eighteen dollars per thousand records. All fees collected pursuant to this subsection shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(7) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and reciprocal exchange of a valid operator's license issued by this state or the foreign country if the department determines that the licensing standards of the foreign country are comparable to those of this state. Any such agreement entered into by the department shall not include the mutual recognition and reciprocal exchange of a commercial driver's license.

Source: Laws 1929, c. 149, § 9, p. 516; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 516; Laws 1941, c. 176, § 2, p. 688; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-412; Laws 1961, c. 315, § 9, p. 1005; Laws 1961, c. 316, § 9, p. 1014; Laws 1963, c. 360, § 1, p. 1154; Laws 1965, c. 384, § 1, p. 1238; Laws 1973, LB 319, § 1; Laws 1974, LB 974, § 1; Laws 1978, LB 502, § 1; Laws 1983, LB 326, § 1; Laws 1984, LB 694, § 2; Laws 1984, LB 711, § 1; Laws 1987, LB 300, § 2; Laws 1987, LB 767, § 1; R.S.1943, (1988), § 60-412; Laws 1989, LB 285, § 33; Laws 1993, LB 491, § 10; Laws 1995, LB 467, § 9; Laws 1997, LB 590, § 2; Laws 1997, LB 635, § 19; Laws 1997, LB 720, § 17; Laws 2000, LB 1317, § 6; Laws 2001, LB 106, § 1; Laws 2003, LB 562, § 3; Laws 2004, LB 560, § 37; Laws 2017, LB263, § 64.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484 Operator's license required, when; state identification card; application.

(1) Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of this state until the person has obtained an operator's license for that purpose.

(2) Application for an operator's license or a state identification card shall be made in a manner prescribed by the department.

(3) The applicant shall provide his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, evidence of identity as required by subsection (6) of this section, and a brief physical description of himself or herself. The applicant (a) may also complete the voter registration portion pursuant to section 32-308, (b) shall be provided the advisement language required by subsection (5) of section 60-6,197, (c) shall answer the following:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(A) lost voluntary control or consciousness ... yes ... no

(B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(C) experienced disorientation ... yes ... no

(D) experienced seizures ... yes ... no

(E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver’s license/permit, has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:, and (d) may answer the following:

(i) Do you wish to register to vote as part of this application process?

(ii) Do you wish to have the word “veteran” displayed on the front of your operator’s license or state identification card to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans’ Affairs registry.)

(iii) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

(iv) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(v) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(4) Application for an operator’s license or state identification card shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the license or card is true and correct.

(5) The social security number shall not be printed on the operator’s license or state identification card and shall be used only (a) to furnish information to the United States Selective Service System under section 60-483, (b) with the permission of the director in connection with the verification of the status of an individual’s driving record in this state or any other state, (c) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (d) to furnish information regarding an applicant for or holder of a commercial driver’s license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent, (e) to furnish information to the Department of Revenue under section 77-362.02, or (f) to furnish information to the Secretary of State for purposes of the Election Act.

(6)(a) Each individual applying for an operator’s license or a state identification card shall furnish proof of date of birth and identity with documents containing a photograph or with nonphoto identity documents which include his or her full legal name and date of birth. Such documents shall be those provided in subsection (1) of section 60-484.04.

(b) Any individual under the age of eighteen years applying for an operator’s license or a state identification card shall provide a certified copy of his or her birth certificate or, if such individual is unable to provide a certified copy of his or her birth certificate, other reliable proof of his or her identity and age, as required in subdivision (6)(a) of this section, accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant also may be required to furnish proof to

department personnel that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

(c) An applicant may present other documents as proof of identification and age designated by the director. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7) Any individual applying for an operator's license or a state identification card who indicated his or her wish to have the word "veteran" displayed on the front of such license or card shall comply with section 60-4,189.

(8) No person shall be a holder of an operator's license and a state identification card at the same time. A person who has a digital image and digital signature on file with the department may apply electronically to change his or her Class O operator's license to a state identification card.

Source: Laws 1929, c. 148, § 1, p. 512; C.S.1929, § 60-401; Laws 1937, c. 141, § 11, p. 510; C.S.Supp.,1941, § 60-401; R.S.1943, § 60-403; Laws 1945, c. 141, § 1, p. 446; Laws 1947, c. 207, § 1, p. 675; Laws 1957, c. 366, § 35, p. 1269; Laws 1961, c. 315, § 2, p. 998; Laws 1961, c. 316, § 2, p. 1007; Laws 1984, LB 811, § 2; Laws 1986, LB 153, § 9; Laws 1986, LB 878, § 1; Laws 1987, LB 300, § 1; R.S.1943, (1988), § 60-403; Laws 1989, LB 285, § 35; Laws 1991, LB 457, § 44; Laws 1992, LB 1178, § 1; Laws 1994, LB 76, § 571; Laws 1994, LB 211, § 2; Laws 1995, LB 467, § 10; Laws 1996, LB 939, § 1; Laws 1996, LB 1073, § 1; Laws 1997, LB 635, § 20; Laws 1999, LB 147, § 1; Laws 1999, LB 704, § 5; Laws 2000, LB 1317, § 7; Laws 2001, LB 34, § 1; Laws 2001, LB 387, § 4; Laws 2001, LB 574, § 5; Laws 2003, LB 228, § 12; Laws 2004, LB 208, § 4; Laws 2004, LB 559, § 1; Laws 2005, LB 1, § 1; Laws 2005, LB 76, § 5; Laws 2008, LB911, § 9; Laws 2010, LB879, § 3; Laws 2011, LB215, § 5; Laws 2013, LB93, § 3; Laws 2014, LB661, § 16; Laws 2014, LB983, § 10; Laws 2016, LB47, § 1; Laws 2016, LB311, § 6; Laws 2018, LB909, § 78.
Effective date April 12, 2018.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-484.02 Digital images and signatures; use; confidentiality; prohibited acts; violation; penalty.

(1) Each applicant for an operator's license or state identification card shall have his or her digital image captured. Digital images shall be preserved for use as prescribed in sections 60-4,119, 60-4,151, and 60-4,180. The images shall be used for issuing operators' licenses and state identification cards. The images may be retrieved only by the Department of Motor Vehicles for issuing renewal and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (3) of this section.

(2) Upon application for an operator's license or state identification card, each applicant shall provide his or her signature in a form prescribed by the department. Digital signatures shall be preserved for use on original, renewal, and replacement operators' licenses and state identification cards and may not be otherwise released except in accordance with subsection (4) of this section.

(3) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital image except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a federal, state, or local agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department or law enforcement officer that knowingly discloses or knowingly permits disclosure of a digital image or digital signature in violation of this section shall be guilty of a Class I misdemeanor.

(4) No officer, employee, agent, or contractor of the department or law enforcement officer shall release a digital signature except (a) to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release or (b) to the office of the Secretary of State for the purpose of voter registration as described in section 32-304, 32-308, or 32-309 upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. No employee or official in the office of the Secretary of State shall release a digital signature except to a federal, state, or local law enforcement agency, a certified law enforcement officer employed in an investigative position by a state or federal agency, or a driver licensing agency of another state for the purpose of carrying out the functions of the agency or assisting another agency in carrying out its functions upon the verification of the identity of the person requesting the release of the information and the verification of the purpose of the requester in requesting the release. Any officer, employee, agent, or contractor of the department, law enforcement officer, or employee or official in the office of the Secretary of State that knowingly discloses or knowingly permits disclosure of a digital signature in violation of this section shall be guilty of a Class I misdemeanor.

Source: Laws 2001, LB 574, § 4; Laws 2004, LB 560, § 38; Laws 2005, LB 1, § 3; Laws 2009, LB372, § 1; Laws 2010, LB805, § 5; Laws 2014, LB661, § 17; Laws 2014, LB777, § 3.

60-484.03 Operators' licenses; state identification cards; department; retain copies of source documents.

The department shall retain copies of source documents presented by all individuals applying for or holding operators' licenses or state identification cards. Copies retained by the department shall be held in secured storage and managed to meet the requirements of the Uniform Motor Vehicle Records Disclosure Act and sections 60-484, 60-484.02, and 60-4,144.

Source: Laws 2011, LB215, § 6; Laws 2014, LB983, § 11.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-484.04 Operators' licenses; state identification cards; applicant present evidence of lawful status.

(1) The Legislature finds and declares that section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13, enumerated categories of individuals who may demonstrate lawful status for the purpose of eligibility for a federally secure motor vehicle operator's license or state identification card. The Legislature further finds and declares that it was the intent of the Legislature in 2011 to adopt the enumerated categories by the passage of Laws 2011, LB215. The Legislature declares that the passage of Laws 2015, LB623, is for the limited purpose of reaffirming the original legislative intent of Laws 2011, LB215. Except as provided in section 60-4,144 with respect to operators of commercial motor vehicles, before being issued any other type of operator's license or a state identification card under the Motor Vehicle Operator's License Act, the department shall require an applicant to present valid documentary evidence that he or she has lawful status in the United States as enumerated in section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13. Lawful status may be shown by:

(a) A valid, unexpired United States passport;

(b) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;

(c) A Consular Report of Birth Abroad (CRBA) issued by the United States Department of State, Form FS-240, DS-1350, or FS-545;

(d) A valid, unexpired Permanent Resident Card (Form I-551) issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;

(e) An unexpired employment authorization document (EAD) issued by the United States Department of Homeland Security, Form I-766 or Form I-688B;

(f) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States;

(g) A Certificate of Naturalization issued by the United States Department of Homeland Security, Form N-550 or Form N-570;

(h) A Certificate of Citizenship, Form N-560 or Form N-561, issued by the United States Department of Homeland Security;

(i) A driver's license or identification card issued in compliance with the standards established by the REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or

(j) Such other documents as the director may approve.

(2)(a) If an applicant presents one of the documents listed under subdivision (1)(a), (b), (c), (d), (g), or (h) of this section, the verification of the applicant's identity in the manner prescribed in section 60-484 will also provide satisfactory evidence of lawful status.

(b) If the applicant presents one of the identity documents listed under subdivision (1)(e), (f), or (i) of this section, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant must also present a second document from subsection (1) of this section or documentation issued by the United States Department of Homeland Security, the United States Citizenship and Immigration Services, or other federal

agencies, such as one of the types of Form I-797 used by the United States Citizenship and Immigration Services, demonstrating that the applicant has lawful status as enumerated in section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13.

(3) An applicant may present other documents as designated by the director as proof of lawful status as enumerated in section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13. Any documents accepted shall be recorded according to a written exceptions process established by the director.

Source: Laws 2011, LB215, § 7; Laws 2014, LB983, § 12; Laws 2015, LB623, § 1.

60-484.05 Operators' licenses; state identification cards; temporary; when issued; period valid; special notation; renewal; return of license or card, when.

(1) The department shall only issue an operator's license or a state identification card that is temporary to any applicant who presents documentation under sections 60-484 and 60-484.04 that shows his or her authorized stay in the United States is temporary. An operator's license or a state identification card that is temporary shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) An operator's license or state identification card that is temporary shall clearly indicate that it is temporary with a special notation on the front of the license or card and shall state the date on which it expires.

(3) An operator's license or state identification card that is temporary may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the operator's license or state identification card that is temporary has been extended by the United States Department of Homeland Security.

(4) If an individual has an operator's license or a state identification card issued based on approved lawful status granted under section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13, and the basis for the approved lawful status is terminated, the individual shall return the operator's license or state identification card to the Department of Motor Vehicles.

Source: Laws 2011, LB215, § 8; Laws 2014, LB983, § 13; Laws 2015, LB623, § 2.

60-484.06 Operators' licenses; state identification cards; department; power to verify documents.

Before issuing any operator's license or state identification card under the Motor Vehicle Operator's License Act, the department may verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by a person pursuant to sections 60-484, 60-484.04, and 60-4,144.

Source: Laws 2011, LB215, § 9; Laws 2014, LB983, § 14.

60-485 Repealed. Laws 2012, LB 751, § 57.**60-486 Operator's license; license suspended or revoked; effect; appeal.**

(1) No person shall be licensed to operate a motor vehicle by the State of Nebraska if such person has an operator's license currently under suspension or revocation in this state or any other state or jurisdiction in the United States.

(2) If a license is issued to a person while his or her operator's license was suspended or revoked in this state or any other state or jurisdiction, the Department of Motor Vehicles may cancel the license upon forty-five days' written notice by regular United States mail to the licensee's last-known address. The cancellation may be appealed as provided in section 60-4,105.

(3) When such a person presents to the department an official notice from the state or jurisdiction that suspended or revoked his or her motor vehicle operator's license that such suspension or revocation has been terminated, he or she may then be licensed to operate a motor vehicle by the State of Nebraska.

Source: Laws 1986, LB 153, § 7; R.S.1943, (1988), § 60-403.05; Laws 1989, LB 285, § 37; Laws 1999, LB 704, § 6; Laws 2001, LB 38, § 13; Laws 2012, LB751, § 19.

60-487 Cancellation of certain licenses or permits; when.

(1) If any magistrate or judge finds in his or her judgment of conviction that the application or issuance certificate pursuant to which the director has issued an operator's license under the Motor Vehicle Operator's License Act contains any false or fraudulent statement deliberately and knowingly made to any officer as to any matter material to the issuance of such license or does not contain required or correct information or that the person to whom the license was issued was not eligible to receive such license, then the license shall be absolutely void from the date of issue and such motor vehicle operator shall be deemed to be not licensed to operate a motor vehicle. Such license shall be at once canceled of record in his or her office by the director upon receipt of a copy of such judgment of conviction. The director may, upon his or her own motion, summarily cancel any license for any of the reasons set forth in this section if such reason or reasons affirmatively appear on his or her official records.

(2) If the director determines, in a check of an applicant's license status and record prior to issuing a CLP-commercial learner's permit or commercial driver's license, or at any time after the CLP-commercial learner's permit or commercial driver's license is issued, that the applicant falsified information contained in the application or in the medical examiner's certificate, the director may summarily cancel the person's CLP-commercial learner's permit or commercial driver's license or his or her pending application as provided in subsection (1) of this section and disqualify the person from operating a commercial motor vehicle for sixty days.

Source: Laws 1929, c. 148, § 10, p. 517; C.S.1929, § 60-410; Laws 1937, c. 141, § 20, p. 517; Laws 1941, c. 124, § 1, p. 469; C.S.Supp.,1941, § 60-410; R.S.1943, § 60-416; R.S.1943, (1988), § 60-416; Laws 1989, LB 285, § 38; Laws 1991, LB 420, § 7;

Laws 1999, LB 704, § 7; Laws 2001, LB 38, § 14; Laws 2003, LB 562, § 4; Laws 2011, LB215, § 10; Laws 2014, LB983, § 15; Laws 2016, LB666, § 3.

60-493 Organ and tissue donation; county treasurer or licensing staff; distribute brochure; additional information; department; duty.

(1) When a person applies for an operator's license or state identification card, the county treasurer or licensing staff of the Department of Motor Vehicles shall distribute a brochure provided by an organ and tissue procurement organization and approved by the Department of Health and Human Services containing a description and explanation of the Revised Uniform Anatomical Gift Act to each person applying for a new or renewal license or card.

(2) If an individual desires to receive additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska as indicated on an application and retained by the department under section 60-484, 60-4,144, or 60-4,181, the department shall notify a representative of the federally designated organ procurement organization for Nebraska within five working days of the name and address of such individual.

Source: Laws 1977, LB 115, § 3; R.S.1943, (1988), § 60-406.01; Laws 1989, LB 285, § 43; Laws 1992, LB 1178, § 2; Laws 1996, LB 1044, § 280; Laws 1999, LB 704, § 10; Laws 2001, LB 34, § 2; Laws 2004, LB 559, § 2; Laws 2007, LB296, § 229; Laws 2010, LB1036, § 31; Laws 2016, LB311, § 7.

Cross References

Revised Uniform Anatomical Gift Act, see section 71-4824.

60-494 Operator's license; state identification card; organ and tissue donation information; department; duty.

(1) Each operator's license and state identification card shall include a special notation on the front of the license or card if the licensee or cardholder is at least sixteen years of age and indicates on the application or issuance certificate under section 60-484 or 60-4,144 his or her wish to be an organ and tissue donor.

(2) The status as an organ and tissue donor shall continue until amended or revoked by the licensee or cardholder as provided in subsection (4) of this section or section 71-4829. The status as an organ and tissue donor is not changed by the expiration, suspension, cancellation, revocation, or impoundment of the license or card.

(3) Any person whose operator's license or state identification card indicates his or her status as an organ and tissue donor may obtain a replacement license or card without a notation of such status. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

(4) A licensee or cardholder may change his or her status as a donor by indicating the desire that his or her name not be included in the Donor Registry of Nebraska on an application for an operator's license, a state identification card, or a replacement license or card under subsection (3) of this section. A licensee or cardholder may also change or limit the extent of his or her status as a donor by (a) Internet access to the Donor Registry of Nebraska, (b)

telephone request to the registry, or (c) other methods approved by the federally designated organ procurement organization for Nebraska.

(5) The department shall electronically transfer to the federally designated organ procurement organization for Nebraska all information which appears on the face of an original or replacement operator's license or state identification card except the image and signature of each person whose license or card includes the notation described in subsection (1) of this section.

Source: Laws 1984, LB 711, § 2; Laws 1985, LB 585, § 1; R.S.1943, (1988), § 60-412.01; Laws 1989, LB 285, § 44; Laws 1992, LB 1178, § 3; Laws 1999, LB 704, § 11; Laws 2001, LB 34, § 3; Laws 2001, LB 574, § 8; Laws 2004, LB 559, § 3; Laws 2010, LB1036, § 32; Laws 2016, LB47, § 2.

60-495 Organ and tissue donation; rules and regulations; Organ and Tissue Donor Awareness and Education Fund; created; use; investment.

(1) The director shall adopt and promulgate such rules and regulations and prepare and furnish all forms and information necessary to carry out sections 60-493 to 60-495 and the duties of the department under the Revised Uniform Anatomical Gift Act.

(2) The Organ and Tissue Donor Awareness and Education Fund is created. Department personnel and the county treasurer shall remit all funds contributed under sections 60-484, 60-4,144, and 60-4,181 to the State Treasurer for credit to the fund. The Department of Health and Human Services shall administer the Organ and Tissue Donor Awareness and Education Fund for the promotion of organ and tissue donation. The department shall use the fund to assist organizations such as the federally designated organ procurement organization for Nebraska and the State Anatomical Board in carrying out activities which promote organ and tissue donation through the creation and dissemination of educational information. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1977, LB 115, § 5; R.S.1943, (1988), § 60-406.03; Laws 1989, LB 285, § 45; Laws 1999, LB 147, § 2; Laws 2010, LB1036, § 33; Laws 2016, LB311, § 8.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

Revised Uniform Anatomical Gift Act, see section 71-4824.

60-497.01 Conviction and probation records; abstract of court record; transmission to director; duties.

(1) An abstract of the court record of every case in which a person is convicted of violating any provision of the Motor Vehicle Operator's License Act, the Motor Vehicle Safety Responsibility Act, the Nebraska Rules of the Road, or section 28-524, as from time to time amended by the Legislature, or any traffic regulations in city or village ordinances shall be transmitted within thirty days of sentencing or other disposition by the court to the director. Any abstract received by the director more than thirty days after the date of sentencing or other disposition shall be reported by the director to the State Court Administrator.

(2) Any person violating section 28-306, 28-394, 28-1254, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on probation shall be assessed the same points under section 60-4,182 as if such person were not placed on probation unless a court has ordered that such person must obtain an ignition interlock permit in order to operate a motor vehicle with an ignition interlock device pursuant to section 60-6,211.05 and sufficient evidence is presented to the department that such a device is installed. For any other violation, the director shall not assess such person with any points under section 60-4,182 for such violation when the person is placed on probation until the director is advised by the court that such person previously placed on probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. When a person fails to successfully complete probation, the court shall notify the director immediately.

Source: Laws 1931, c. 110, § 58, p. 326; Laws 1941, c. 124, § 9, p. 476; C.S.Supp.,1941, § 39-1189; R.S.1943, § 39-794; Laws 1953, c. 219, § 7, p. 771; Laws 1957, c. 164, § 1, p. 579; Laws 1957, c. 165, § 1, p. 582; Laws 1957, c. 366, § 15, p. 1255; Laws 1972, LB 1032, § 247; Laws 1972, LB 1058, § 2; Laws 1973, LB 226, § 25; Laws 1973, LB 317, § 1; R.S.Supp.,1973, § 39-794; Laws 1975, LB 379, § 1; Laws 1987, LB 79, § 1; Laws 1991, LB 420, § 2; R.S.Supp.,1992, § 39-669.22; Laws 1993, LB 370, § 75; Laws 1993, LB 564, § 13; Laws 1993, LB 575, § 15; Laws 2001, LB 38, § 18; Laws 2006, LB 925, § 2; Laws 2008, LB736, § 2; Laws 2009, LB63, § 32; Laws 2011, LB667, § 23.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.
Nebraska Rules of the Road, see section 60-601.

60-498.01 Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.

(1) Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol.

(2) If a person arrested as described in subsection (2) of section 60-6,197 refuses to submit to the chemical test of blood, breath, or urine required by section 60-6,197, the test shall not be given except as provided in section 60-6,210 for the purpose of medical treatment and the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person

refused to submit to the required test. The director may accept a sworn report submitted electronically.

(3) If a person arrested as described in subsection (2) of section 60-6,197 submits to the chemical test of blood or breath required by section 60-6,197, the test discloses the presence of alcohol in any of the concentrations specified in section 60-6,196, and the test results are available to the arresting peace officer while the arrested person is still in custody, the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately confiscate and revoke the operator's license of such person and that the revocation will be automatic fifteen days after the date of arrest. The arresting peace officer shall within ten days forward to the director a sworn report stating (a) that the person was arrested as described in subsection (2) of section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person submitted to a test, the type of test to which he or she submitted, and that such test revealed the presence of alcohol in a concentration specified in section 60-6,196. The director may accept a sworn report submitted electronically.

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the person's arrest or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, and the notice of revocation and shall provide them to law enforcement agencies.

If the person has an operator's license, the arresting peace officer shall take possession of the license and issue a temporary operator's license valid for fifteen days. The arresting peace officer shall forward the operator's license to the department along with the sworn report made under subsection (2) or (3) of this section.

(5)(a) If the results of a chemical test indicate the presence of alcohol in a concentration specified in section 60-6,196, the results are not available to the arresting peace officer while the arrested person is in custody, and the notice of revocation has not been served as required by subsection (4) of this section, the peace officer shall forward to the director a sworn report containing the information prescribed by subsection (3) of this section within ten days after receipt of the results of the chemical test. If the sworn report is not received within ten days, the revocation shall not take effect. The director may accept a sworn report submitted electronically.

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by mail to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The

notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The director shall also provide to the arrested person information prepared and approved by the director describing how to request an administrative license revocation hearing and an application for an ignition interlock permit. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after the mailing of the notice of revocation or the person's right to an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the ignition interlock permit application and the notice of revocation. The revocation shall be effective fifteen days after the date of mailing.

(c) If the records of the director indicate that the arrested person possesses an operator's license, the director shall include with the notice of revocation a temporary operator's license which expires fifteen days after the date of mailing. Any arrested person who desires an administrative license revocation hearing and has been served a notice of revocation pursuant to this subsection shall return his or her operator's license with the petition requesting the hearing. If the operator's license is not included with the petition requesting the hearing, the director shall deny the petition.

(6)(a) An arrested person's operator's license confiscated pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of fifteen days after the date of arrest, and the petition requesting the hearing shall be completed and delivered to the department or postmarked within ten days after the person's arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of fifteen days after the date of mailing of the notice of revocation by the director, and the arrested person shall postmark or return to the director a petition within ten days after the mailing of the notice of revocation if the arrested person desires an administrative license revocation hearing. The petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing and any prehearing conference may be conducted in person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

(b) The director shall conduct the hearing within twenty days after a petition is received by the director. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by mail postmarked at least seven days prior to the hearing date. The filing of the petition shall not prevent the automatic revocation of the petitioner's operator's license at the expiration of the fifteen-day period. A continuance of the hearing to a date beyond the expiration of the temporary operator's license shall stay the expiration of the temporary license when the request for continuance is made by the director.

(c) At hearing the issues under dispute shall be limited to:

(i) In the case of a refusal to submit to a chemical test of blood, breath, or urine:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

(ii) If the chemical test discloses the presence of alcohol in a concentration specified in section 60-6,196:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; and

(B) Was the person operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of subsection (1) of section 60-6,196.

(7)(a) Any arrested person who submits an application for an ignition interlock permit in lieu of a petition for an administrative license revocation hearing regarding the revocation of his or her operator's license pursuant to this section shall complete the application for an ignition interlock permit in which such person acknowledges that he or she understands that he or she will have his or her license administratively revoked pursuant to this section, that he or she waives his or her right to a hearing to contest the revocation, and that he or she understands that he or she is required to have an ignition interlock permit in order to operate a motor vehicle for the period of the revocation and shall include sufficient evidence that an ignition interlock device is installed on one or more vehicles that will be operated by the arrested person. Upon the arrested person's completion of the ignition interlock permit application process, the department shall issue the person an ignition interlock permit, subject to any applicable requirements and any applicable no-drive period if the person is otherwise eligible.

(b) An arrested person who is issued an ignition interlock permit pursuant to this section shall receive day-for-day credit for the period he or she has a valid ignition interlock permit against the license revocation period imposed by the court arising from the same incident.

(c) If a person files a completed application for an ignition interlock permit, the person waives his or her right to contest the revocation of his or her operator's license.

(8) Any person who has not petitioned for an administrative license revocation hearing and is subject to an administrative license revocation may immediately apply for an ignition interlock permit to use during the applicable period of revocation set forth in section 60-498.02, subject to the following additional restrictions:

(a) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has no prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be immediately available fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and has one or

more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person plus forty-five additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;

(c) If such person refused to submit to a chemical test of blood, breath, or urine as required by section 60-6,197, the ignition interlock permit will be available beginning fifteen days after the date of arrest plus ninety additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit; and

(d) Any person who petitions for an administrative license revocation hearing shall not be eligible for an ignition interlock permit unless ordered by the court at the time of sentencing for the related criminal proceeding.

(9) The director shall adopt and promulgate rules and regulations to govern the conduct of the administrative license revocation hearing and insure that the hearing will proceed in an orderly manner. The director may appoint a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. Any motion for discovery filed by the petitioner shall entitle the prosecutor to receive full statutory discovery from the petitioner upon a prosecutor's request to the relevant court pursuant to section 29-1912 in any criminal proceeding arising from the same arrest. A copy of the motion for discovery shall be filed with the department and a copy provided to the prosecutor in the jurisdiction in which the petitioner was arrested. Incomplete discovery shall not stay the hearing unless the petitioner requests a continuance. All proceedings before the hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section 60-498.04.

(10) Any person who tampers with or circumvents an ignition interlock device installed pursuant to sections 60-498.01 to 60-498.04 or who operates a motor vehicle not equipped with a functioning ignition interlock device required pursuant to such sections or otherwise is in violation of the purposes for operation indicated on the ignition interlock permit under such sections shall, in addition to any possible criminal charges, have his or her revocation period and ignition interlock permit extended for six months beyond the end of the original revocation period.

(11) A person under the age of eighteen years who holds any license or permit issued under the Motor Vehicle Operator's License Act and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section

28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an ignition interlock permit.

Source: Laws 1972, LB 1095, § 5; C.S.Supp.,1972, § 39-727.16; Laws 1992, LB 872, § 4; Laws 1992, LB 291, § 9; R.S.Supp.,1992, § 39-669.15; Laws 1993, LB 370, § 300; Laws 1996, LB 939, § 3; Laws 1998, LB 309, § 15; Laws 2001, LB 38, § 51; R.S.Supp.,2002, § 60-6,205; Laws 2003, LB 209, § 4; Laws 2004, LB 208, § 5; Laws 2011, LB667, § 24; Laws 2012, LB751, § 20.

60-498.02 Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restriction on operation of motor vehicle.

(1) At the expiration of fifteen days after the date of arrest as described in subsection (2) of section 60-6,197 or if after a hearing pursuant to section 60-498.01 the director finds that the operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) revoke the operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196 for a period of one hundred eighty days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, in which case the period of revocation shall be one year. Except as otherwise provided in section 60-6,211.05, a new operator's license shall not be issued to such person until the period of revocation has elapsed. If the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the order of revocation to the person's state of residence.

(2) A person operating a motor vehicle under an ignition interlock permit issued pursuant to sections 60-498.01 to 60-498.04 shall only operate a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to such sections shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(3) A person may have his or her eligibility for a license reinstated upon payment of a reinstatement fee as required by section 60-694.01.

(4)(a) A person whose operator's license is subject to revocation pursuant to subsection (3) of section 60-498.01 shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee upon receipt of suitable evidence by the director that:

(i) The prosecuting attorney responsible for the matter declined to file a complaint alleging a violation of section 60-6,196;

(ii) The defendant, after trial, was found not guilty of violating section 60-6,196 or such charge was dismissed on the merits by the court; or

(iii) In the criminal action on the charge of a violation of section 60-6,196 arising from the same incident, the court held one of the following:

(A) The peace officer did not have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section; or

(B) The person was not operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

(b) The director shall adopt and promulgate rules and regulations establishing standards for the presentation of suitable evidence of compliance with subdivision (a) of this subsection.

(c) If a criminal charge is filed or refiled for a violation of section 60-6,196 pursuant to an arrest for which all administrative license revocation proceedings were dismissed under this subsection, the director, upon notification or discovery, may reinstate an administrative license revocation under this section as of the date that the director receives notification of the filing or refiled of the charge, except that a revocation shall not be reinstated if it was dismissed pursuant to section 60-498.01.

Source: Laws 1972, LB 1095, § 6; C.S.Supp.,1972, § 39-727.17; Laws 1974, LB 679, § 3; Laws 1982, LB 568, § 7; Laws 1986, LB 153, § 8; Laws 1988, LB 377, § 3; Laws 1992, LB 291, § 11; R.S.Supp.,1992, § 39-669.16; Laws 1993, LB 370, § 301; Laws 1993, LB 491, § 1; Laws 1993, LB 564, § 12; Laws 1998, LB 309, § 16; Laws 2001, LB 38, § 52; R.S.Supp.,2002, § 60-6,206; Laws 2003, LB 209, § 5; Laws 2004, LB 208, § 6; Laws 2008, LB736, § 3; Laws 2009, LB497, § 2; Laws 2010, LB924, § 1; Laws 2011, LB667, § 25; Laws 2011, LB675, § 2; Laws 2012, LB751, § 21; Laws 2013, LB158, § 1.

60-498.03 Operator's license revocation decision; notice; contents.

(1) The director shall reduce the decision revoking an operator's license under sections 60-498.01 to 60-498.04 to writing, and the director shall notify the person in writing of the revocation. The notice shall set forth the period of revocation and be served by mailing it to such person to the address provided to the director at the administrative license revocation hearing or, if the person does not appear at the hearing, to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses.

(2) If the director does not revoke the operator's license, the director shall immediately notify the person in writing of the decision. The notice shall set forth the time and place the person may obtain his or her license. The notice shall be mailed as provided in subsection (1) of this section. No reinstatement fee shall be charged for return of the confiscated operator's license pursuant to this subsection.

Source: Laws 1972, LB 1095, § 7; C.S.Supp.,1972, § 39-727.18; Laws 1992, LB 291, § 12; R.S.Supp.,1992, § 39-669.17; Laws 1993, LB 370, § 302; Laws 2001, LB 38, § 53; R.S.Supp.,2002, § 60-6,207; Laws 2003, LB 209, § 6; Laws 2011, LB667, § 26.

60-498.04 License revocation; appeal; notice of judgment.

Any person who feels himself or herself aggrieved because of the revocation of his or her operator's license under sections 60-498.01 to 60-498.04 may appeal therefrom to the district court of the county where the alleged events occurred for which he or she was arrested, and the appeal shall be in accordance with section 84-917. The district court shall allow any party to an appeal to appear by telephone at any proceeding before the court for purposes of the appeal. Such appeal shall not suspend the order of revocation. The court shall provide notice of the final judgment to the department.

Source: Laws 1972, LB 1095, § 8; C.S.Supp.,1972, § 39-727.19; Laws 1988, LB 352, § 31; R.S.1943, (1988), § 39-669.18; Laws 1993, LB 370, § 303; Laws 1998, LB 309, § 17; R.S.1943, (1998), § 60-6,208; Laws 2003, LB 209, § 7; Laws 2011, LB667, § 27.

60-4,100 Suspension; when authorized; citation; lack of financial ability to pay; hearing; determination; court or magistrate; powers; order; operate as release.

(1) Any resident of this state who has violated a promise to comply with the terms of a traffic citation issued by a law enforcement officer for a moving violation in any jurisdiction outside this state pursuant to the Nonresident Violator Compact of 1977 or in any jurisdiction inside this state shall be subject to having his or her operator's license suspended pursuant to this section.

(2) The court having jurisdiction over the offense for which the citation has been issued shall notify the director of a resident's violation of a promise to comply with the terms of the citation after thirty working days have elapsed from the date of the failure to comply, unless within such thirty working days the resident appears before the clerk of the county court having jurisdiction over the offense to request a hearing pursuant to subsection (3) of this section to establish that such resident lacks the financial ability to pay the citation.

(3) A hearing requested under subsection (2) of this section shall be set before the court or magistrate on the first regularly scheduled court date following the request. At the hearing, the resident shall have the opportunity to present information as to his or her income, assets, debts, or other matters affecting his or her financial ability to pay the citation. Following the hearing, the court or magistrate shall determine the resident's financial ability to pay the citation, including his or her financial ability to pay in installments.

(4)(a) Except as provided in subdivision (4)(c) of this section, if the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay the citation and the resident refuses to pay, the court or magistrate shall either:

(i) Notify the director of the resident's violation of a promise to comply with the terms of the citation; or

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate

shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(b) If the court or magistrate determines under subsection (3) of this section that the resident is financially unable to pay the citation, the court or magistrate shall either:

(i) Enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation;

(ii) Postpone the hearing for a period of no more than one month during which period the court or magistrate may order the resident to complete such hours of community service as the court or magistrate deems appropriate, subject to a total limit of twenty hours. At the end of such period, if the resident has completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director. If the resident has not completed such community service to the satisfaction of the court or magistrate, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation. A hearing may only be postponed once under this subdivision.

(c) If the court or magistrate determines under subsection (3) of this section that the resident is financially able to pay in installments and the resident agrees to make such payments, the court or magistrate shall make arrangements suitable to the court or magistrate and to the resident by which the resident may pay in installments. The court or magistrate shall enter an order specifying the terms of such arrangements and the dates on which payments are to be made. If the resident fails to pay an installment, the court or magistrate shall notify the director of the resident's violation of a promise to comply with the terms of the citation unless the resident requests a hearing from the clerk of the county court on or before ten working days after such installment was due. At the hearing, the resident shall show good cause for such failure, including financial inability to pay. If, following such hearing, the court or magistrate finds:

(i) That the resident has not demonstrated good cause for such failure, the court or magistrate shall either notify the director of the resident's violation of a promise to comply with the terms of the citation or postpone the hearing and order community service pursuant to subdivision (4)(a)(ii) of this section;

(ii) That the resident remains financially able to pay but has demonstrated good cause for such missed installment, the court or magistrate shall make any necessary modifications to the order specifying the terms of the installment payments; or

(iii) That the resident has become financially unable to pay, the court or magistrate shall enter an order pursuant to subsection (5) of this section discharging the resident of the obligation to pay such citation and shall notify the director.

(5) An order discharging the resident of the obligation to pay a traffic citation shall be set forth in or accompanied by a judgment entry. Such order shall operate as a complete release of such payment obligation.

(6) Upon notice to the director that a resident has violated a promise to comply with the terms of a traffic citation as provided in this section, the director shall send written notice to such resident by regular United States mail to the resident's last-known mailing address or, if such address is unknown, to the last-known residence address of such resident as shown by the records of the department. Such notice shall state that such resident has twenty working days after the date of the notice to show the director that the resident has complied with the terms of such traffic citation. If the resident fails to show the director that he or she has complied with the terms of such traffic citation on or before twenty working days after the date of the notice, the director shall summarily suspend the operator's license and issue an order. The order shall be sent by regular United States mail to the resident's last-known mailing address as shown by the records of the department. The suspension shall continue until the resident has furnished the director with satisfactory evidence of compliance with the terms of the citation.

(7) The reinstatement fee required under section 60-4,100.01 shall be waived if five years have passed since issuance of the license suspension order under this section.

(8) The performance or completion of an order to complete community service under this section may be supervised or confirmed by a community correctional facility or program or another similar entity as ordered by the court or magistrate.

(9) For purposes of this section:

(a) Agency means any public or governmental unit, institution, division, or agency or any private nonprofit organization which provides services intended to enhance the social welfare or general well-being of the community, which agrees to accept community service from residents under this section and to supervise and report the progress of such community service to the court or magistrate;

(b) Community correctional facility or program has the same meaning as in section 47-621; and

(c) Community service means uncompensated labor for an agency to be performed by a resident when the resident is not working or attending school.

Source: Laws 1937, c. 141, § 23, p. 518; Laws 1941, c. 124, § 4, p. 472; C.S.Supp., 1941, § 60-428; R.S. 1943, § 60-426; Laws 1981, LB 344, § 2; Laws 1986, LB 153, § 10; R.S. 1943, (1988), § 60-426; Laws 1989, LB 285, § 50; Laws 1991, LB 420, § 10; Laws 1993, LB 491, § 11; Laws 1997, LB 10, § 1; Laws 2001, LB 38, § 21; Laws 2012, LB751, § 22; Laws 2017, LB259, § 13.
Operative date July 1, 2019.

Cross References

Nonresident Violator Compact of 1977, see section 1-119, Vol. 2A, Appendix.

60-4,105 Appeal; procedure.

(1) Unless otherwise provided by statute, any person aggrieved by a final decision or order of the director or the Department of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew any operator's license, any decision of the director, or suspension of an operator's license under the License Suspension Act may appeal to either the district court of the county in which

the person originally applied for the license or the district court of the county in which such person resides or, in the case of a nonresident, to the district court of Lancaster County within thirty days after the date of the final decision or order.

(2) Summons shall be served on the department within thirty days after the filing of the petition in the manner provided for service of a summons in section 25-510.02. Within thirty days after service of the petition and summons, the department shall prepare and transmit to the petitioner a certified copy of the official record of the proceedings before the department. The department shall require payment of a five-dollar fee prior to the transmittal of the official record. The petitioner shall file the transcript with the court within fourteen days after receiving the transcript from the department.

(3) The district court shall hear the appeal as in equity without a jury and determine anew all questions raised before the director. Either party may appeal from the decision of the district court to the Court of Appeals.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Source: Laws 1937, c. 141, § 29, p. 522; Laws 1941, c. 124, § 8, p. 475; C.S.Supp.,1941, § 60-433; R.S.1943, § 60-420; Laws 1984, LB 697, § 1; Laws 1988, LB 352, § 105; R.S.1943, (1988), § 60-420; Laws 1989, LB 285, § 55; Laws 1989, LB 352, § 1; Laws 1991, LB 732, § 121; Laws 1994, LB 211, § 3; Laws 1997, LB 752, § 139; Laws 1999, LB 704, § 14; Laws 2002, LB 876, § 79; Laws 2017, LB644, § 11.

Cross References

Administrative Procedure Act, see section 84-920.

License Suspension Act, see section 43-3301.

60-4,108 Operating motor vehicle during period of suspension, revocation, or impoundment; penalties; juvenile; violation; handled in juvenile court.

(1) It shall be unlawful for any person to operate a motor vehicle during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to conviction or convictions for violation of any law or laws of this state, by an order of any court, or by an administrative order of the director. Except as otherwise provided by subsection (3) of this section or by other law, any person so offending shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, (b) for a second or third such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, and (c) for a fourth or subsequent such offense, be guilty of a Class I misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from

the date ordered by the court and also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) It shall be unlawful for any person to operate a motor vehicle (a) during any period that his or her operator's license has been suspended, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license. Except as provided in subsection (3) of this section, any person so offending shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year from the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(3) If a juvenile whose operator's license or permit has been impounded by a juvenile court operates a motor vehicle during any period that he or she is subject to the court order not to operate any motor vehicle or after a period of impoundment but before return of the license or permit, such violation shall be handled in the juvenile court and not as a violation of this section.

Source: Laws 1957, c. 275, § 2, p. 1002; Laws 1959, c. 293, § 3, p. 1099; Laws 1977, LB 39, § 81; Laws 1979, LB 149, § 1; Laws 1985, LB 356, § 1; Laws 1986, LB 153, § 12; R.S.1943, (1988), § 60-430.01; Laws 1989, LB 285, § 58; Laws 1997, LB 772, § 4; Laws 2001, LB 38, § 25; Laws 2010, LB800, § 34; Laws 2012, LB1155, § 13; Laws 2017, LB263, § 65.

60-4,109 Operating motor vehicle during period of suspension, revocation, or impoundment; city or village ordinance; penalties.

(1) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person during any period that he or she is subject to a court order not to operate any motor vehicle for any purpose or during any period that his or her operator's license has been revoked or impounded pursuant to any law of this state, such person shall (a) for a first such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court and also order the operator's license of such person to be revoked for a like period, unless the person was placed on probation, then revocation may be ordered at the court's discretion, and (b) for each subsequent such offense, be guilty of a Class II misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court and also order the

operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person (a) during any period that his or her operator's license has been suspended pursuant to any law of this state, (b) after a period of revocation but before issuance of a new license, or (c) after a period of impoundment but before the return of the license, such person shall be guilty of a Class III misdemeanor, and the court may, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date ordered by the court, except that if the person at the time of sentencing shows proof of reinstatement of his or her suspended operator's license, proof of issuance of a new license, or proof of return of the impounded license, the person shall only be fined in an amount not to exceed one hundred dollars. If the court orders the person not to operate a motor vehicle for a period of one year after the date ordered by the court, the court shall also order the operator's license of such person to be revoked for a like period. Such orders of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 1959, c. 293, § 4, p. 1099; R.S.1943, (1988), § 60-430.05; Laws 1989, LB 285, § 59; Laws 1997, LB 772, § 5; Laws 2001, LB 38, § 26; Laws 2017, LB263, § 66.

60-4,110 Operating motor vehicle during period of suspension, revocation, or impoundment; impounding of motor vehicle; release, when authorized; restitution authorized.

(1) Every motor vehicle, regardless of the registered owner of the motor vehicle, being operated by a person whose operator's license has been suspended, revoked, or impounded pursuant to a conviction or convictions for violation of section 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any court or an administrative order of the director is hereby declared a public nuisance. The motor vehicle may be seized upon the arrest of the operator of the motor vehicle and impounded at the expense of the owner of the motor vehicle. If such operator's license is suspended, revoked, or impounded pursuant to subdivision (1)(c) of section 60-4,108 or section 60-498.01, 60-498.02, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the motor vehicle shall be impounded for not less than ten days nor more than thirty days. No motor vehicle impounded under this section shall be impounded for a period of time exceeding thirty days except as provided in subsection (3) of this section.

(2) Any motor vehicle impounded shall be released:

(a) To the holder of a bona fide lien on the motor vehicle executed prior to such impoundment when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying his or her lien on the motor vehicle;

(b) To the titled owner of the motor vehicle when the titled owner is a lessor. Upon learning the address or telephone number of the rental or leasing company which owns the motor vehicle, the impounding law enforcement

agency shall immediately contact the company and inform it that the motor vehicle is available for the company to take possession; or

(c) To the registered owner, a registered co-owner, or a spouse of the owner upon good cause shown by an affidavit or otherwise to the court before which the complaint is pending against the operator that the impounded motor vehicle is essential to the livelihood of the owner, co-owner, or spouse or the dependents of such owner, co-owner, or spouse.

(3) Any person who, at the direction of a peace officer, tows and stores a motor vehicle pursuant to this section shall have a lien upon such motor vehicle while in his or her possession for reasonable towing and storage charges and shall have a right to retain such motor vehicle until such charges are paid.

(4) If the registered owner of a motor vehicle was not the operator of the motor vehicle whose actions caused the motor vehicle to be impounded, the registered owner of the motor vehicle may recover civilly from the operator of the motor vehicle all expenses incurred by reason of the impoundment. In the case of a criminal action, the court may order such operator of the motor vehicle to pay restitution to the registered owner in an amount equal to any expenses incurred with respect to impoundment.

Source: Laws 1961, c. 321, § 1, p. 1024; Laws 1961, c. 322, § 1, p. 1025; R.S.1943, (1988), § 60-430.06; Laws 1989, LB 285, § 60; Laws 1998, LB 309, § 4; Laws 2003, LB 209, § 8; Laws 2012, LB1155, § 14.

60-4,111.01 Storage or compilation of information; retailer; seller; authorized acts; sign posted; use of stored information; approval of negotiable instrument or certain payments; authorized acts; violations; penalty.

(1) The Department of Motor Vehicles, the courts, or law enforcement agencies may store or compile information acquired from an operator's license or a state identification card for their statutorily authorized purposes.

(2) Except as otherwise provided in subsection (3) or (4) of this section, no person having use of or access to machine-readable information encoded on an operator's license or a state identification card shall compile, store, preserve, trade, sell, or share such information. Any person who trades, sells, or shares such information shall be guilty of a Class IV felony. Any person who compiles, stores, or preserves such information except as authorized in subsection (3) or (4) of this section shall be guilty of a Class IV felony.

(3)(a) For purposes of compliance with and enforcement of restrictions on the purchase of alcohol, lottery tickets, and tobacco products, a retailer who sells any of such items pursuant to a license issued or a contract under the applicable statutory provision may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The retailer may store only the following information obtained from the license or card: Age and license or card identification number. The retailer shall post a sign at the point of sale of any of such items stating that the license or card will be scanned and that the age and identification number will be stored. The stored information may only be used by a law enforcement agency for purposes of enforcement of the restrictions on the purchase of alcohol, lottery tickets, and tobacco products and may not be shared with any other person or entity.

(b) For purposes of compliance with the provisions of sections 28-458 to 28-462, a seller who sells methamphetamine precursors pursuant to such sections may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale. The seller may store only the following information obtained from the license or card: Name, age, address, type of identification presented by the customer, the governmental entity that issued the identification, and the number on the identification. The seller shall post a sign at the point of sale stating that the license or card will be scanned and stating what information will be stored. The stored information may only be used by law enforcement agencies, regulatory agencies, and the exchange for purposes of enforcement of the restrictions on the sale or purchase of methamphetamine precursors pursuant to sections 28-458 to 28-462 and may not be shared with any other person or entity. For purposes of this subsection, the terms exchange, methamphetamine precursor, and seller have the same meanings as in section 28-458.

(c) The retailer or seller shall utilize software that stores only the information allowed by this subsection. A programmer for computer software designed to store such information shall certify to the retailer that the software stores only the information allowed by this subsection. Intentional or grossly negligent programming by the programmer which allows for the storage of more than the age and identification number or wrongfully certifying the software shall be a Class IV felony.

(d) A retailer or seller who knowingly stores more information than authorized under this subsection from the operator's license or state identification card shall be guilty of a Class IV felony.

(e) Information scanned, compiled, stored, or preserved pursuant to subdivision (a) of this subsection may not be retained longer than eighteen months unless required by state or federal law.

(4) In order to approve a negotiable instrument, an electronic funds transfer, or a similar method of payment, a person having use of or access to machine-readable information encoded on an operator's license or a state identification card may:

(a) Scan, compile, store, or preserve such information in order to provide the information to a check services company subject to and in compliance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681, as such act existed on January 1, 2010, for the purpose of effecting, administering, or enforcing a transaction requested by the holder of the license or card or preventing fraud or other criminal activity; or

(b) Scan and store such information only as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability or to resolve a dispute or inquiry by the holder of the license or card.

(5) Except as provided in subdivision (4)(a) of this section, information scanned, compiled, stored, or preserved pursuant to this section may not be traded or sold to or shared with a third party; used for any marketing or sales purpose by any person, including the retailer who obtained the information; or, unless pursuant to a court order, reported to or shared with any third party. A person who violates this subsection shall be guilty of a Class IV felony.

Source: Laws 2001, LB 574, § 30; Laws 2010, LB261, § 1; Laws 2011, LB20, § 9.

(g) PROVISIONS APPLICABLE TO OPERATION OF MOTOR VEHICLES OTHER THAN COMMERCIAL

60-4,112 Sections; applicability.

Sections 60-4,114.01 and 60-4,118.01 to 60-4,130.05 shall apply to the operation of any motor vehicle except a commercial motor vehicle.

Source: Laws 1989, LB 285, § 62; Laws 1991, LB 44, § 2; Laws 1993, LB 105, § 8; Laws 1994, LB 211, § 4; Laws 1998, LB 320, § 4; Laws 2001, LB 38, § 27; Laws 2003, LB 562, § 5; Laws 2008, LB911, § 10; Laws 2011, LB158, § 2; Laws 2014, LB983, § 16.

60-4,113 Examining personnel; appointment; duties; examinations; issuance of certificate or receipt; license; state identification card; county treasurer; duties; delivery of license or card.

(1) The director shall appoint as his or her agents one or more department personnel who shall examine all applicants for a state identification card or an operator's license as provided in section 60-4,114, except as otherwise provided in subsection (8) of section 60-4,122. The same department personnel may be assigned to one or more counties by the director. In counties in which the county treasurer collects the fees and issues receipts, the county shall furnish office space for the administration of the operator's license examination. Department personnel shall conduct the examination of applicants and deliver to each successful applicant an issuance certificate or receipt. The certificate may be presented to the county treasurer within ninety days after issuance, and the county treasurer shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt which is valid for up to thirty days. If an operator's license is being issued, the receipt shall also authorize driving privileges for such thirty-day period. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant.

(2) The department may provide for the central production and issuance of operators' licenses and state identification cards. Production shall take place at a secure production facility designated by the director. The licenses and cards shall be of such a design and produced in such a way as to discourage, to the maximum extent possible, fraud in applicant enrollment, identity theft, and the forgery and counterfeiting of such licenses and cards. Delivery of an operator's license or state identification card shall be to the mailing address provided by the applicant at the time of application.

Source: Laws 1929, c. 148, § 2, p. 513; C.S.1929, § 60-402; Laws 1937, c. 141, § 12, p. 511; C.S.Supp.,1941, § 60-402; R.S.1943, § 60-404; Laws 1945, c. 141, § 2, p. 447; Laws 1945, c. 142, § 1, p. 454; Laws 1957, c. 366, § 36, p. 1270; Laws 1961, c. 307, § 4, p. 972; Laws 1961, c. 315, § 3, p. 999; Laws 1961, c. 316, § 3, p. 1009; Laws 1961, c. 317, § 1, p. 1016; Laws 1967, c. 389, § 1, p. 1212; Laws 1976, LB 329, § 1; Laws 1977, LB 90, § 3; R.S.1943, (1988), § 60-404; Laws 1989, LB 285, § 64; Laws 1999, LB 704, § 15; Laws 2001, LB 574, § 9; Laws 2008, LB911, § 11; Laws 2011, LB215, § 11; Laws 2016, LB311, § 9.

60-4,114 County treasurer; personnel; examination of applicant; denial or refusal of certificate; appeal; medical opinion.

(1) The county treasurer may employ such additional clerical help as may be necessary to assist him or her in the performance of the ministerial duties required of him or her under the Motor Vehicle Operator's License Act and, for such additional expense, shall be reimbursed as set out in section 60-4,115.

(2) The director may, in his or her discretion, appoint department personnel to examine all applicants who apply for an initial license or whose licenses have been revoked or canceled to ascertain such person's ability to operate a motor vehicle properly and safely.

(3) Except as otherwise provided in section 60-4,122, the application process, in addition to the other requisites of the act, shall include the following:

(a) An inquiry into the medical condition and visual ability of the applicant to operate a motor vehicle;

(b) An inquiry into the applicant's ability to drive and maneuver a motor vehicle, except that no driving skills test shall be conducted using an autocycle; and

(c) An inquiry touching upon the applicant's knowledge of the motor vehicle laws of this state, which shall include sufficient questions to indicate familiarity with the provisions thereof.

(4) If an applicant is denied or refused a certificate for license or a license is canceled, such applicant or licensee shall have the right to an immediate appeal to the director from the decision. It shall be the duty of the director to review the appeal and issue a final order, to be made not later than ten days after the receipt of the appeal by the director. The director shall issue a final order not later than ten days following receipt of the medical opinion if the applicant or licensee submits reports from a physician of his or her choice for the director's consideration as provided in section 60-4,118.03. The applicant or licensee who files an appeal pursuant to this section shall notify the director in writing if he or she intends to submit records or reports for consideration. Such notice must be received by the director not later than ten days after an appeal is filed pursuant to this section to stay the director's decision until after the consideration of such records or reports as provided in section 60-4,118.03. After consideration of evidence in the records of the applicant or licensee, including any records submitted by the applicant or licensee, the director shall make a determination of the physical or mental ability of the applicant or licensee to operate a motor vehicle and shall issue a final order. The order shall be in writing, shall be accompanied by findings of fact and conclusions of law, and shall be sent by regular United States mail to the last-known address of the applicant or licensee. The order may be appealed as provided in section 60-4,105.

Source: Laws 1929, c. 148, § 6, p. 514; C.S.1929, § 60-406; Laws 1931, c. 101, § 1, p. 272; Laws 1937, c. 141, § 16, p. 514; C.S.Supp.,1941, § 60-406; R.S.1943, § 60-408; Laws 1945, c. 141, § 5, p. 450; Laws 1947, c. 207, § 2, p. 676; Laws 1957, c. 366, § 38, p. 1272; Laws 1961, c. 307, § 5, p. 972; Laws 1961, c. 315, § 6, p. 1003; Laws 1961, c. 316, § 6, p. 1013; Laws 1972, LB 1439, § 1; Laws 1981, LB 76, § 2; R.S.1943, (1988), § 60-408; Laws 1989, LB 285, § 63; Laws 1994, LB 211, § 9; Laws 1999, LB 704, § 16; Laws 2001, LB 38, § 28; Laws 2001, LB 574, § 10; Laws 2011, LB215, § 12; Laws 2012, LB751, § 23; Laws 2015, LB231, § 22; Laws 2017, LB644, § 12.

60-4,114.01 Applicant for Class O or Class M license; issuance of LPD-learner's permit; restriction on reapplication for license.

An applicant for a Class O or Class M license that fails three successive tests of his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 may be issued an LPD-learner's permit. The applicant shall not be eligible to reapply for the Class O or Class M license and retake such test until he or she presents proof of successful completion of a department-approved driver training school or until he or she has held an LPD-learner's permit for at least ninety days.

Source: Laws 2011, LB158, § 3.

60-4,115 Fees; allocation; identity security surcharge.

(1) Fees for operators' licenses and state identification cards shall be collected by department personnel or the county treasurer and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund.

(2) The fees provided in this subsection in the following dollar amounts apply for operators' licenses and state identification cards.

| Document | Total Fee | County General Fund | Department of Motor Vehicles Cash Fund | State General Fund |
|---|-----------|---------------------|--|--------------------|
| State identification card: | | | | |
| Valid for 1 year or less | 5.00 | 2.75 | 1.25 | 1.00 |
| Valid for more than 1 year but not more than 2 years | 10.00 | 2.75 | 4.00 | 3.25 |
| Valid for more than 2 years but not more than 3 years | 14.00 | 2.75 | 5.25 | 6.00 |
| Valid for more than 3 years but not more than 4 years | 19.00 | 2.75 | 8.00 | 8.25 |
| Valid for more than 4 years for person under 21 | 24.00 | 2.75 | 10.25 | 11.00 |
| Valid for 5 years | 24.00 | 3.50 | 10.25 | 10.25 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Class O or M operator's license: | | | | |
| Valid for 1 year or less | 5.00 | 2.75 | 1.25 | 1.00 |
| Valid for more than 1 year but not more than 2 years | 10.00 | 2.75 | 4.00 | 3.25 |
| Valid for more than 2 years but not more than 3 years | 14.00 | 2.75 | 5.25 | 6.00 |
| Valid for more than 3 years but not more than 4 years | 19.00 | 2.75 | 8.00 | 8.25 |
| Valid for 5 years | 24.00 | 3.50 | 10.25 | 10.25 |
| Bioptic or telescopic lens restriction: | | | | |
| Valid for 1 year or less | 5.00 | 0 | 5.00 | 0 |
| Valid for more than 1 year but not more than 2 years | 10.00 | 2.75 | 4.00 | 3.25 |

MOTOR VEHICLES

| Document | Total Fee | County General Fund | Department of Motor Vehicles Cash Fund | State General Fund |
|---|-----------|---------------------|--|--------------------|
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| Provisional operator's permit: | | | | |
| Original | 15.00 | 2.75 | 12.25 | 0 |
| Bioptic or telescopic lens restriction: | | | | |
| Valid for 1 year or less | 5.00 | 0 | 5.00 | 0 |
| Valid for more than 1 year but not more than 2 years | 15.00 | 2.75 | 12.25 | 0 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| LPD-learner's permit: | | | | |
| Original | 8.00 | .25 | 5.00 | 2.75 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| LPE-learner's permit: | | | | |
| Original | 8.00 | .25 | 5.00 | 2.75 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| School permit: | | | | |
| Original | 8.00 | .25 | 5.00 | 2.75 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| Farm permit: | | | | |
| Original or renewal | 5.00 | .25 | 0 | 4.75 |
| Replacement | 5.00 | .25 | 0 | 4.75 |
| Temporary | 5.00 | .25 | 0 | 4.75 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| Driving permits: | | | | |
| Employment | 45.00 | 0 | 5.00 | 40.00 |
| Medical hardship | 45.00 | 0 | 5.00 | 40.00 |
| Replacement | 10.00 | .25 | 5.00 | 4.75 |
| Add, change, or remove class, endorsement, or restriction | 5.00 | 0 | 5.00 | 0 |
| Commercial driver's license: | | | | |
| Valid for 1 year or less | 11.00 | 1.75 | 5.00 | 4.25 |
| Valid for more than 1 year but not more than 2 years | 22.00 | 1.75 | 5.00 | 15.25 |
| Valid for more than 2 years but not more than 3 years | 33.00 | 1.75 | 5.00 | 26.25 |
| Valid for more than 3 years but not more than 4 years | 44.00 | 1.75 | 5.00 | 37.25 |
| Valid for 5 years | 55.00 | 1.75 | 5.00 | 48.25 |
| Bioptic or telescopic lens restriction: | | | | |

| Document | Total Fee | County General Fund | Department of Motor Vehicles Cash Fund | State General Fund |
|---|-----------|---------------------|--|--------------------|
| Valid for one year or less | 11.00 | 1.75 | 5.00 | 4.25 |
| Valid for more than 1 year but not more than 2 years | 22.00 | 1.75 | 5.00 | 15.25 |
| Replacement | 11.00 | 2.75 | 6.00 | 2.25 |
| Add, change, or remove class, endorsement, or restriction | 10.00 | 1.75 | 5.00 | 3.25 |
| CLP-commercial learner's permit: | | | | |
| Original or renewal | 10.00 | .25 | 5.00 | 4.75 |
| Replacement | 10.00 | .25 | 5.00 | 4.75 |
| Add, change, or remove class, endorsement, or restriction | 10.00 | .25 | 5.00 | 4.75 |
| Seasonal permit: | | | | |
| Original or renewal | 10.00 | .25 | 5.00 | 4.75 |
| Replacement | 10.00 | .25 | 5.00 | 4.75 |
| Add, change, or remove class, endorsement, or restriction | 10.00 | .25 | 5.00 | 4.75 |

(3) If the department issues an operator's license or a state identification card and collects the fees, the department shall remit the county portion of the fees to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(4)(a) The fee for an ignition interlock permit shall be forty-five dollars. Five dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Forty dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Ignition Interlock Fund.

(b) The fee for a replacement ignition interlock permit shall be eleven dollars. Two dollars and seventy-five cents of the fee shall be remitted to the county treasurer for credit to the county general fund. Six dollars of the fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Two dollars and twenty-five cents of the fee shall be remitted to the State Treasurer for credit to the General Fund.

(c) The fee for adding, changing, or removing a class, endorsement, or restriction on an ignition interlock permit shall be five dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(5) The department and its agents may collect an identity security surcharge to cover the cost of security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

Source: Laws 1929, c. 148, § 7, p. 515; C.S.1929, § 60-407; Laws 1931, c. 101, § 2, p. 272; Laws 1937, c. 148, § 17, p. 515; Laws 1941, c.

128, § 1, p. 483; Laws 1941, c. 176, § 1, p. 687; C.S.Supp., 1941, § 60-407; R.S.1943, § 60-409; Laws 1945, c. 141, § 6, p. 452; Laws 1947, c. 207, § 3, p. 677; Laws 1949, c. 181, § 3, p. 525; Laws 1951, c. 195, § 12, p. 742; Laws 1955, c. 242, § 1, p. 757; Laws 1957, c. 366, § 39, p. 1273; Laws 1961, c. 315, § 7, p. 1004; Laws 1961, c. 316, § 7, p. 1014; Laws 1963, c. 359, § 2, p. 1151; Laws 1967, c. 234, § 3, p. 624; Laws 1976, LB 329, § 2; Laws 1977, LB 90, § 5; Laws 1981, LB 207, § 1; Laws 1985, Second Spec. Sess., LB 5, § 1; R.S.1943, (1988), § 60-409; Laws 1989, LB 285, § 65; Laws 1992, LB 319, § 4; Laws 1993, LB 491, § 12; Laws 1995, LB 467, § 11; Laws 1998, LB 309, § 5; Laws 1998, LB 320, § 5; Laws 1999, LB 704, § 17; Laws 2001, LB 574, § 11; Laws 2005, LB 1, § 5; Laws 2006, LB 1008, § 2; Laws 2008, LB736, § 4; Laws 2008, LB911, § 12; Laws 2009, LB497, § 3; Laws 2011, LB170, § 2; Laws 2011, LB215, § 13; Laws 2011, LB667, § 28; Laws 2014, LB777, § 4; Laws 2014, LB983, § 17; Laws 2016, LB311, § 10; Laws 2018, LB347, § 1.
Operative date January 1, 2019.

60-4,115.01 Fee payment returned or not honored; department powers; notice to applicant; contents; payment; department; duties.

(1) If a fee required under the Motor Vehicle Operator's License Act for issuance of any operator's license or state identification card has been paid by check, draft, or other financial transaction, including an electronic financial transaction, and the check, draft, or financial transaction has been returned or not honored because of insufficient funds, no account, a stop-payment order, or any other reason, the department may cancel or refuse to issue or renew the operator's license or state identification card. Such license shall remain canceled or shall not be issued until the applicant has made full payment as required by subsection (4) of this section.

(2) Prior to taking action described in subsection (1) of this section, the department shall notify the applicant of the proposed action and the reasons for such action in writing, by first-class mail, mailed to the applicant's last-known mailing address provided by the applicant at the time of application.

(3) The department may take the action described in subsection (1) of this section no sooner than seven days after the notice required in subsection (2) of this section has been made.

(4) If an operator's license or state identification card is canceled or refused by the department pursuant to this section, the department shall issue or reinstate the operator's license or state identification card without delay upon the full payment of the fees owed by the applicant and payment of costs as authorized by section 84-620.

Source: Laws 2016, LB311, § 11.

60-4,116 Applicant; department; duties.

Prior to the issuance of any original or renewal operator's license, the issuance of a replacement operator's license, or the reissuance of any such license with a change of any classification, endorsement, or restriction, the department shall:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial learner's permit or commercial driver's license issued by any other state, whether such license or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, (b) has had an operator's license suspended, revoked, or canceled, (c) is not eligible, or (d) is deceased.

Source: Laws 2003, LB 562, § 6; Laws 2011, LB178, § 4; Laws 2012, LB751, § 24; Laws 2014, LB777, § 5; Laws 2014, LB983, § 18.

60-4,117 Operator's license or state identification card; form; department personnel or county treasurer; duties.

(1) An applicant shall present an issuance certificate to the county treasurer for an operator's license or state identification card. Department personnel or the county treasurer shall collect the applicable fee and surcharge as prescribed in section 60-4,115 and issue a receipt which is valid for up to thirty days. If there is cause for an operator's license to be issued, the receipt shall also authorize driving privileges for such thirty-day period. The license or card shall be delivered as provided in section 60-4,113.

(2) The operator's license and state identification card shall be in a form prescribed by the department. The license and card may include security features prescribed by the department. The license and card shall be conspicuously marked Nebraska Operator's License or Nebraska Identification Card, shall be, to the maximum extent practicable, tamper and forgery proof, and shall include the following information:

- (a) The full legal name and principal residence address of the holder;
- (b) The holder's full facial digital image;
- (c) A physical description of the holder, including gender, height, weight, and eye and hair colors;
- (d) The holder's date of birth;
- (e) The holder's signature;
- (f) The class of motor vehicle which the holder is authorized to operate and any applicable endorsements or restrictions;
- (g) The issuance and expiration date of the license or card;
- (h) The organ and tissue donation information specified in section 60-494;
- (i) A notation of the word "veteran" as provided in section 60-4,189; and
- (j) Such other marks and information as the director may determine.

(3) Each operator's license and state identification card shall contain the following encoded, machine-readable information: The holder's full legal name; date of birth; gender; race or ethnicity; document issue date; document expira-

tion date; principal residence address; unique identification number; revision date; inventory control number; and state of issuance.

Source: Laws 1929, c. 148, § 4, p. 513; C.S.1929, § 60-404; Laws 1937, c. 141, § 14, p. 512; C.S.Supp.,1941, § 60-404; R.S.1943, § 60-406; Laws 1959, c. 286, § 2, p. 1082; Laws 1961, c. 315, § 4, p. 1000; Laws 1961, c. 316, § 4, p. 1008; Laws 1977, LB 90, § 4; R.S. 1943, (1988), § 60-406; Laws 1989, LB 285, § 67; Laws 2001, LB 34, § 4; Laws 2001, LB 38, § 29; Laws 2001, LB 574, § 12; Laws 2008, LB911, § 13; Laws 2011, LB215, § 14; Laws 2013, LB93, § 5; Laws 2016, LB311, § 12.

60-4,118 Vision requirements; persons with physical impairments; physical or mental incompetence; prohibited act; penalty.

(1) No operator's license shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses sufficient powers of eyesight to enable him or her to obtain a Class O license and to operate a motor vehicle on the highways of this state with a reasonable degree of safety. The Department of Motor Vehicles shall adopt and promulgate rules and regulations:

(a) Requiring a minimum acuity level of vision. Such level may be obtained through the use of standard eyeglasses, contact lenses, or bioptic or telescopic lenses which are specially constructed vision correction devices which include a lens system attached to or used in conjunction with a carrier lens; and

(b) Requiring a minimum field of vision. Such field of vision may be obtained through standard eyeglasses, contact lenses, or the carrier lens of the bioptic or telescopic lenses.

(2) If a vision aid is used by the applicant to meet the vision requirements of this section, the operator's license of the applicant shall be restricted to the use of such vision aid when operating the motor vehicle. If the applicant fails to meet the vision requirements, the examiner shall require the applicant to present an optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant within ninety days of the applicant's license examination. If the vision reading meets the vision requirements prescribed by the department, the vision requirements of this section shall have been met. If the vision reading demonstrates that the applicant is required to use bioptic or telescopic lenses to operate a motor vehicle, the statement from the optometrist or ophthalmologist shall also indicate when the applicant needs to be reexamined for purposes of meeting the vision requirements for an operator's license as prescribed by the department. If such time period is two years or more after the date of the application, the license shall be valid for two years. If such time period is less than two years, the license shall be valid for such time period.

(3) If the applicant for an operator's license discloses that he or she has any other physical impairment which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director, to show the necessary ability to safely operate a motor vehicle on the highways. If the examiner is then satisfied that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at

the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate.

(4)(a) The director may, when requested by a law enforcement officer, when the director has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle, or when a person's driving record appears to the department to justify an examination, give notice to the person to appear before an examiner or a designee of the director for examination concerning the person's ability to operate a motor vehicle safely. Any such request by a law enforcement officer shall be accompanied by written justification for such request and shall be approved by a supervisory law enforcement officer, police chief, or county sheriff.

(b) A refusal to appear before an examiner or a designee of the director for an examination after notice to do so shall be unlawful and shall result in the immediate cancellation of the person's operator's license by the director.

(c) If the person cannot qualify at the examination by an examiner, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel the person's operator's license.

(d) If the director determines that the person lacks the physical or mental ability to operate a motor vehicle, the director shall notify the person in writing of the decision. Upon receipt of the notice, the person shall immediately surrender his or her operator's license to the director who shall cancel the person's operator's license.

(e) Refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this subsection shall be guilty of a Class III misdemeanor.

Source: Laws 1929, c. 148, § 5, p. 514; C.S.1929, § 60-405; Laws 1931, c. 104, § 2, p. 277; Laws 1937, c. 141, § 15, p. 512; C.S.Supp.,1941, § 60-405; R.S.1943, § 60-407; Laws 1945, c. 141, § 4, p. 449; Laws 1949, c. 179, § 11, p. 511; Laws 1951, c. 200, § 1, p. 753; Laws 1955, c. 240, § 1, p. 751; Laws 1955, c. 241, § 1, p. 754; Laws 1957, c. 272, § 1, p. 995; Laws 1959, c. 286, § 3, p. 1082; Laws 1959, c. 292, § 1, p. 1094; Laws 1961, c. 315, § 5, p. 1000; Laws 1961, c. 316, § 5, p. 1009; Laws 1963, c. 358, § 1, p. 1144; Laws 1963, c. 359, § 1, p. 1148; Laws 1965, c. 219, § 2, p. 637; Laws 1965, c. 381, § 1, p. 1230; Laws 1967, c. 234, § 2, p. 621; Laws 1971, LB 725, § 1; Laws 1973, LB 90, § 1; Laws 1974, LB 611, § 1; Laws 1974, LB 821, § 14; Laws 1977, LB 39, § 76; Laws 1984, LB 710, § 1; Laws 1984, LB 811, § 4; Laws 1987, LB 224, § 22; Laws 1988, LB 1093, § 1; Laws 1989, LB 284, § 5; R.S.1943, (1988), § 60-407; Laws 1989, LB 285, § 68; Laws 1990, LB 742, § 3; Laws 1993, LB 564, § 15; Laws 1994, LB 211, § 10; Laws 1995, LB 37, § 9; Laws 1995, LB 467, § 12; Laws 1998, LB 309, § 6; Laws 1998, LB 320, § 6; Laws 1999, LB 585, § 2; Laws 1999, LB 704, § 18; Laws 2001, LB 38, § 30; Laws 2001, LB 387, § 5; Laws 2006, LB 1008, § 3; Laws 2017, LB644, § 13.

60-4,118.02 Repealed. Laws 2017, LB644, § 21.

60-4,118.03 Mental, medical, or vision problems; records and reports; examinations; reports; appeal; immunity.

Whenever the director reviews the denial or cancellation of an operator's license because of mental, medical, or vision problems that may affect the person's ability to safely operate a motor vehicle as provided in sections 60-4,114 and 60-4,118, the director may consider records and reports from a qualified physician. The applicant or licensee may cause a written report to be forwarded to the director by a physician of his or her choice pursuant to an immediate appeal to the director under section 60-4,114. The director shall grant reasonable time for the applicant or licensee to submit such records. The director shall give due consideration to any such report.

Reports received by the director for the purpose of assisting the director in determining whether a person is qualified to be licensed shall be for the confidential use of the director and any designees of the director and may not be divulged to any person other than the applicant or licensee or used in evidence in any legal proceeding, except that a report may be admitted in an appeal of an order of the director based on the report. Any person aggrieved by a decision of the director made pursuant to this section may appeal the decision as provided in section 60-4,105.

No person examining any applicant or licensee shall be liable in tort or otherwise for any opinion, recommendation, or report presented to the director if such action was taken in good faith and without malice.

Source: Laws 1994, LB 211, § 7; Laws 2017, LB644, § 14.

60-4,118.04 Repealed. Laws 2017, LB644, § 21.

60-4,118.05 Age requirements; license issued; when.

(1) No operator's license referred to in section 60-4,118 shall, under any circumstances, be issued to any person who has not attained the age of seventeen years.

(2) No operator's license shall be issued to a person under eighteen years of age applying for an operator's license under section 60-4,118 unless such person:

(a) Has possessed a valid provisional operator's permit for at least a twelve-month period beginning on the date of issuance of such person's provisional operator's permit; and

(b) Has not accumulated three or more points pursuant to section 60-4,182 during the twelve-month period immediately preceding the date of the application for the operator's license.

(3) The department may waive the written examination and the driving test required under section 60-4,118 for any person seventeen to twenty-one years of age applying for his or her initial operator's license if he or she has been issued a provisional operator's permit. The department shall not waive the written examination and the driving test required under this section if the person is applying for a CLP-commercial learner's permit or commercial driver's license or if the operator's license being applied for contains a class or endorsement which is different from the class or endorsement of the provisional operator's permit.

Source: Laws 2001, LB 38, § 31; Laws 2008, LB911, § 14; Laws 2014, LB983, § 19.

60-4,118.06 Ignition interlock permit; issued; when; operation restriction; revocation of permit by director; when.

(1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, a certified copy of an order for installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to section 60-6,197.03, or a copy of an order from the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient evidence that the person has surrendered his or her operator's license to the department and installed an approved ignition interlock device in accordance with such order, and (c) payment of the fee provided in section 60-4,115, such person may apply for an ignition interlock permit. A person subject to administrative license revocation under sections 60-498.01 to 60-498.04 shall be eligible for an ignition interlock permit as provided in such sections. The director shall issue an ignition interlock permit only for the operation of a motor vehicle equipped with an ignition interlock device. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(2) Upon expiration of the revocation period or upon expiration of an order issued by the Board of Pardons pursuant to section 83-1,127.02, a person may apply to the department in writing for issuance of an operator's license. Regardless of whether the license surrendered by such person under subsection (1) of this section has expired, the person shall apply for a new operator's license pursuant to the Motor Vehicle Operator's License Act.

(3)(a) An ignition interlock permit shall not be issued under this section or sections 60-498.01 to 60-498.04 to any person except in cases of a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06.

(b) An ignition interlock permit shall only be available to a holder of a Class M or O operator's license.

(4) The director shall revoke a person's ignition interlock permit issued under this section or sections 60-498.01 to 60-498.04 upon receipt of an (a) abstract of conviction indicating that the person had his or her operating privileges revoked or canceled or (b) administrative order revoking or canceling the person's operating privileges, if such conviction or order resulted from an incident other than the incident which resulted in the application for the ignition interlock permit.

Source: Laws 2001, LB 38, § 32; Laws 2003, LB 209, § 9; Laws 2008, LB736, § 5; Laws 2009, LB497, § 4; Laws 2010, LB924, § 2; Laws 2011, LB667, § 29; Laws 2012, LB751, § 25; Laws 2013, LB158, § 2.

60-4,119 Operators' licenses; state identification cards; digital image and digital signature; exception; procedure.

(1) All state identification cards and operators' licenses, except farm permits, shall include a digital image and a digital signature of the cardholder or licensee as provided in section 60-484.02. Receipts for state identification cards and operators' licenses shall be issued by the county treasurer or the Department of Motor Vehicles. The director shall negotiate and enter into a contract to provide the necessary equipment, supplies, and forms for the issuance of the licenses and cards. All costs incurred by the Department of Motor Vehicles

under this section shall be paid by the state out of appropriations made to the department. All costs of capturing the digital images and digital signatures shall be paid by the issuer from the fees provided to the issuer pursuant to section 60-4,115.

(2) A person who is out of the state at the time of renewal of his or her operator's license may apply for a license upon payment of a fee as provided in section 60-4,115. The license may be issued at any time within one year after the expiration of the original license. Such application shall be made to the department, and the department shall issue the license.

(3) Any operator's license and any state identification card issued to a minor as defined in section 53-103.23, as such definition may be amended from time to time by the Legislature, shall be of a distinct designation, of a type prescribed by the director, from the operator's license or state identification card of a person who is not a minor.

Source: Laws 1977, LB 90, § 1; Laws 1978, LB 574, § 3; Laws 1981, LB 46, § 1; Laws 1982, LB 877, § 1; Laws 1984, LB 811, § 3; Laws 1986, LB 575, § 1; Laws 1989, LB 284, § 4; R.S.1943, (1988), § 60-406.04; Laws 1989, LB 285, § 69; Laws 1990, LB 980, § 9; Laws 1993, LB 201, § 1; Laws 1995, LB 467, § 13; Laws 1999, LB 704, § 19; Laws 2001, LB 574, § 13; Laws 2005, LB 1, § 6; Laws 2010, LB861, § 80; Laws 2014, LB777, § 6.

60-4,120 Operator's license; state identification card; replacement.

(1) Any person duly licensed or holding a valid state identification card issued under the Motor Vehicle Operator's License Act who loses his or her operator's license or card may make application to the department for a replacement license or card.

(2) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the department for a replacement operator's license or state identification card and furnish proof of identification in accordance with section 60-484. If any person changes his or her address, the person shall apply to the department for a replacement operator's license or state identification card and furnish satisfactory evidence of such change. The application shall be made within sixty days after the change of name or address.

(3) In the event a mutilated or unreadable operator's license is held by any person duly licensed under the act or a mutilated or unreadable state identification card which was issued under the act is held by a person, such person may obtain a replacement license or card. Upon report of the mutilated or unreadable license or card and application for a replacement license or card, a replacement license or card may be issued if the department is satisfied that the original license or card is mutilated or unreadable.

(4) If any person duly licensed under the act loses his or her operator's license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may make application to the department for a replacement operator's license or card by applying to the department and reporting such loss. Upon receipt of a correctly completed application, the department shall cause to be issued a replacement operator's license or card.

(5) Any person who holds a valid operator's license or state identification card without a digital image shall surrender such license or card to the department within thirty days after resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid and no license or card shall be issued until the individual has made application for replacement or renewal.

(6) Application for a replacement operator's license or state identification card shall include the information required under sections 60-484 and 60-484.04.

(7) An applicant may obtain a replacement operator's license or state identification card pursuant to subsection (1) or (3) of this section by electronic means in a manner prescribed by the department. No replacement license or card shall be issued unless the applicant has a digital image and digital signature preserved in the digital system.

(8) Each replacement operator's license or state identification card shall be issued with the same expiration date as the license or card for which the replacement is issued. The replacement license or card shall also state the new issuance date. Upon issuance of any replacement license or card, the license or card for which the replacement is issued shall be void.

(9) A replacement operator's license or state identification card issued under this section shall be delivered to the applicant as provided in section 60-4,113 after the county treasurer or department collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days.

Source: Laws 1929, c. 148, § 9, p. 517; C.S.1929, § 60-409; Laws 1937, c. 141, § 19, p. 517; Laws 1941, c. 176, § 2, p. 689; C.S.Supp.,1941, § 60-409; R.S.1943, § 60-415; Laws 1945, c. 141, § 8, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 10, p. 1005; Laws 1961, c. 316, § 10, p. 1015; Laws 1967, c. 234, § 7, p. 626; Laws 1969, c. 506, § 2, p. 2083; Laws 1971, LB 134, § 1; Laws 1971, LB 371, § 1; Laws 1972, LB 1296, § 2; Laws 1977, LB 90, § 6; Laws 1978, LB 606, § 1; Laws 1981, LB 46, § 3; Laws 1984, LB 811, § 6; Laws 1986, LB 575, § 2; Laws 1989, LB 284, § 9; R.S.1943, (1988), § 60-415; Laws 1989, LB 285, § 70; Laws 1993, LB 126, § 1; Laws 1993, LB 201, § 2; Laws 1994, LB 76, § 572; Laws 1998, LB 309, § 7; Laws 2001, LB 574, § 14; Laws 2005, LB 1, § 7; Laws 2011, LB215, § 15; Laws 2012, LB751, § 26; Laws 2014, LB777, § 7.

60-4,120.01 Provisional operator's permit; application; issuance; operation restrictions.

(1)(a) Any person who is at least sixteen years of age but less than eighteen years of age may be issued a provisional operator's permit by the Department of Motor Vehicles. The provisional operator's permit shall expire on the applicant's eighteenth birthday.

(b) No provisional operator's permit shall be issued to any person unless such person:

(i) Has possessed a valid LPD-learner's permit, LPE-learner's permit, or SCP-school permit for at least a six-month period beginning on the date of issuance

of such person's LPD-learner's permit, LPE-learner's permit, or SCP-school permit; and

(ii) Has not accumulated three or more points pursuant to section 60-4,182 during the six-month period immediately preceding the date of the application for the provisional operator's permit.

(c) The requirements for the provisional operator's permit prescribed in subdivisions (2)(a) and (b) of this section may be completed prior to the applicant's sixteenth birthday. A person may apply for a provisional operator's permit and take the driving test and the written examination, if required, at any time within sixty days prior to his or her sixteenth birthday upon proof of age in the manner provided in section 60-484.

(2) In order to obtain a provisional operator's permit, the applicant shall present (a)(i) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (A) the effects of the consumption of alcohol on a person operating a motor vehicle, (B) occupant protection systems, (C) risk assessment, and (D) railroad crossing safety and (ii) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (b) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation including at least ten hours of motor vehicle operation between sunset and sunrise, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. If the applicant presents such a certificate, the applicant shall be required to successfully complete a driving test administered by the department. The written examination shall be waived if the applicant has been issued a Nebraska LPD-learner's permit or has been issued a Nebraska LPE-learner's permit and such permit is valid or has been expired for no more than one year. However, the department shall not waive the written examination if the provisional operator's permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPD-learner's or LPE-learner's permit. Upon presentation by the applicant of a form prescribed by the department showing successful completion of the driver safety course, the written examination and driving test may be waived. Upon presentation of the certificate, the written examination but not the driving test may be waived. Licensing staff shall waive the written examination and the driving test if the applicant has been issued a school permit and such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the provisional operator's permit being applied for contains a class or endorsement which is different from the class or endorsement of the school permit.

(3)(a) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the period beginning at 6 a.m. and ending at 12 midnight except when he or she is en route to or from his or her residence to his or her place of employment or a school activity. The holder of a provisional operator's permit may operate a motor vehicle on the highways of this state at any hour of the day or night if accompanied by a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state.

(b) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the first six months of holding the permit with no more than one passenger who is not an immediate family member and who is under nineteen years of age.

(c) The holder of a provisional operator's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state.

(d) Enforcement of subdivisions (a), (b), and (c) of this subsection shall be accomplished only as a secondary action when the holder of the provisional operator's permit has been cited or charged with a violation of some other law.

(4) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 for the issuance of each provisional operator's permit.

Source: Laws 1998, LB 320, § 7; Laws 1999, LB 704, § 20; Laws 2001, LB 387, § 6; Laws 2001, LB 574, § 15; Laws 2005, LB 1, § 8; Laws 2005, LB 675, § 2; Laws 2007, LB415, § 4; Laws 2008, LB911, § 15; Laws 2016, LB311, § 13.

60-4,120.02 Provisional operator's permit; violations; revocation; not eligible for ignition interlock permit.

(1) Any person convicted of violating a provisional operator's permit issued pursuant to section 60-4,120.01 by operating a motor vehicle in violation of subsection (3) of such section shall be guilty of an infraction and may have his or her provisional operator's permit revoked by the court pursuant to section 60-496 for a time period specified by the court. Before such person applies for another provisional operator's permit, he or she shall pay a reinstatement fee as provided in section 60-499.01 after the period of revocation has expired.

(2) A copy of an abstract of the court's conviction, including an adjudication, shall be transmitted to the director pursuant to sections 60-497.01 to 60-497.04.

(3) Any person who holds a provisional operator's permit and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an ignition interlock permit.

(4) For purposes of this section, conviction includes any adjudication of a juvenile.

Source: Laws 1998, LB 320, § 8; Laws 1999, LB 704, § 21; Laws 2001, LB 38, § 33; Laws 2012, LB751, § 27.

60-4,121 Military service; renewal of operator's license; period valid.

(1) The operator's license of any person serving on active duty, other than members of the National Guard or reserves activated for training purposes only, outside the State of Nebraska as a member of the United States Armed Forces, or the spouse of any such person or a dependent of such member of the armed forces, shall be valid during such person's period of active duty and for not more than sixty days immediately following such person's date of separation from service.

(2) Each individual who is applying for renewal of his or her operator's license shall submit his or her previous license to the department personnel or,

when the previous license is unavailable, furnish proof of identification in accordance with section 60-484.

Source: Laws 1929, c. 148, § 8, p. 516; C.S.1929, § 60-408; Laws 1937, c. 141, § 18, p. 515; C.S.Supp.,1941, § 60-408; R.S.1943, § 60-411; Laws 1945, c. 141, § 7, p. 453; Laws 1947, c. 207, § 4, p. 678; Laws 1961, c. 315, § 8, p. 1004; Laws 1961, c. 316, § 8, p. 1014; Laws 1967, c. 389, § 2, p. 1213; Laws 1967, c. 234, § 5, p. 625; Laws 1971, LB 244, § 1; Laws 1982, LB 877, § 2; Laws 1984, LB 811, § 5; Laws 1985, LB 240, § 1; Laws 1989, LB 284, § 7; R.S.1943, (1988), § 60-411; Laws 1989, LB 285, § 71; Laws 1996, LB 974, § 2; Laws 1997, LB 22, § 1; Laws 1999, LB 704, § 22; Laws 2011, LB215, § 16.

60-4,122 Operator's license; state identification card; renewal procedure; law examination; exceptions; department; powers.

(1) Except as otherwise provided in subsections (2), (3), and (8) of this section, no original or renewal operator's license shall be issued to any person until such person has demonstrated his or her ability to operate a motor vehicle safely as provided in section 60-4,114.

(2) Except as otherwise provided in this section and section 60-4,127, any person who renews his or her Class O or Class M license shall demonstrate his or her ability to drive and maneuver a motor vehicle safely as provided in subdivision (3)(b) of section 60-4,114 only at the discretion of department personnel, except that a person required to use bioptic or telescopic lenses shall be required to demonstrate his or her ability to drive and maneuver a motor vehicle safely each time he or she renews his or her license.

(3) Any person who renews his or her Class O or Class M license prior to or within one year after its expiration may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state as provided in subdivision (3)(c) of section 60-4,114 if his or her driving record abstract maintained in the computerized records of the department shows that such person's license is not impounded, suspended, revoked, or canceled.

(4) Except for operators' licenses issued to persons required to use bioptic or telescopic lenses, any person who renews his or her operator's license which has been valid for fifteen months or less shall not be required to take any examination required under section 60-4,114.

(5) Any person who renews a state identification card shall appear before department personnel and present his or her current state identification card or shall follow the procedure for electronic renewal in subsection (9) of this section. Proof of identification shall be required as prescribed in sections 60-484 and 60-4,181 and the information and documentation required by section 60-484.04.

(6) A nonresident who applies for an initial operator's license in this state and who holds a valid operator's license from another state which is his or her state of residence may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or she surrenders to the department his or her valid out-of-state operator's license.

(7) An applicant for an original operator's license may not be required to demonstrate his or her knowledge of the motor vehicle laws of this state if he or

she has been issued a Nebraska LPD-learner's permit that is valid or has been expired for no more than one year. The written examination shall not be waived if the original operator's license being applied for contains a class or endorsement which is different from the class or endorsement of the Nebraska LPD-learner's permit.

(8)(a) A qualified licensee as determined by the department who is twenty-one years of age or older, whose license expires prior to his or her seventy-second birthday, and who has a digital image and digital signature preserved in the digital system may renew his or her Class O or Class M license once by electronic means in a manner prescribed by the department using the preserved digital image and digital signature without taking any examination required under section 60-4,114 if such renewal is prior to or within one year after the expiration of the license, if his or her driving record abstract maintained in the records of the department shows that such person's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible. Every licensee, including a licensee who is out of the state at the time of renewal, must apply for renewal in person at least once every ten years and have a new digital image and digital signature captured.

(b) In order to allow for an orderly progression through the various types of operators' licenses issued to persons under twenty-one years of age, a qualified holder of an operator's license who is under twenty-one years of age and who has a digital image and digital signature preserved in the digital system may apply for an operator's license by electronic means in a manner prescribed by the department using the preserved digital image and digital signature if the applicant has passed any required examinations prior to application, if his or her driving record abstract maintained in the records of the department shows that such person's operator's license is not impounded, suspended, revoked, or canceled, and if his or her driving record indicates that he or she is otherwise eligible.

(9) Any person who is twenty-one years of age or older and who has been issued a state identification card with a digital image and digital signature may electronically renew his or her state identification card by electronic means in a manner prescribed by the department using the preserved digital image and digital signature.

(10) In addition to services available at driver license offices, the department may develop requirements for using electronic means for online issuance of operators' licenses and state identification cards to qualified holders as determined by the department.

Source: Laws 1967, c. 234, § 6, p. 625; Laws 1984, LB 694, § 1; Laws 1989, LB 284, § 8; R.S.1943, (1988), § 60-411.01; Laws 1989, LB 285, § 72; Laws 1990, LB 369, § 16; Laws 1990, LB 742, § 4; Laws 1990, LB 980, § 10; Laws 1993, LB 370, § 87; Laws 1998, LB 320, § 9; Laws 1999, LB 704, § 23; Laws 2001, LB 387, § 7; Laws 2001, LB 574, § 16; Laws 2008, LB911, § 16; Laws 2011, LB158, § 4; Laws 2011, LB215, § 17; Laws 2014, LB777, § 8; Laws 2018, LB909, § 79.

Effective date April 12, 2018.

60-4,123 LPD-learner's permit; application; issuance; operation restrictions.

(1) Any person who is at least fifteen years of age may apply for an LPD-learner's permit from the department. In order to obtain an LPD-learner's permit, the applicant shall successfully complete a written examination. A person may take the written examination beginning sixty days prior to his or her fifteenth birthday but shall not be issued a permit until he or she is fifteen years of age. The written examination may be waived for any person who has been issued an LPE-learner's permit, LPD-learner's permit, or SCP-school permit that has been expired for no more than one year.

(2) Upon successful completion of the written examination and the payment of a fee and surcharge as prescribed in section 60-4,115, the applicant shall be issued an LPD-learner's permit as provided in section 60-4,113. The permit shall be valid for twelve months.

(3)(a) The holder of an LPD-learner's permit shall only operate a motor vehicle on the highways of this state if he or she is accompanied at all times by a licensed operator who is at least twenty-one years of age and who has been licensed by this state or another state and if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she is actually occupying the seat beside the licensed operator, (ii) in the case of an autocycle, he or she is actually occupying the seat beside or in front of the licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(b) The holder of an LPD-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPD-learner's permit has been cited or charged with a violation of some other law.

(4) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 for the issuance of each LPD-learner's permit.

Source: Laws 1989, LB 285, § 73; Laws 1991, LB 44, § 3; Laws 1998, LB 320, § 10; Laws 1999, LB 704, § 24; Laws 2001, LB 574, § 17; Laws 2005, LB 675, § 3; Laws 2007, LB415, § 5; Laws 2008, LB911, § 17; Laws 2015, LB231, § 23; Laws 2016, LB311, § 14; Laws 2018, LB909, § 80.
Effective date April 12, 2018.

60-4,123.01 Fourteen-year-old person; operation permitted.

For purposes of driver training, any person who has attained or will attain the age of fourteen years on or before October 15 of the current year may operate a motor vehicle, other than an autocycle, upon the highways of this state if he or she is accompanied or, in the case of a motorcycle, other than an autocycle, or a moped, supervised at all times by a licensed operator who is a driver training instructor certified by the Commissioner of Education.

Source: Laws 1991, LB 44, § 4; Laws 2015, LB231, § 24; Laws 2018, LB909, § 81.
Effective date April 12, 2018.

60-4,124 School permit; LPE-learner's permit; issuance; operation restrictions; violations; penalty; not eligible for ignition interlock permit.

(1) A person who is younger than sixteen years and three months of age but is older than fourteen years and two months of age may be issued a school permit if such person either resides outside a city of the metropolitan, primary, or first class or attends a school which is outside a city of the metropolitan, primary, or first class and if such person has held an LPE-learner's permit for two months. A school permit shall not be issued until such person has demonstrated that he or she is capable of successfully operating a motor vehicle, moped, or motorcycle and has in his or her possession an issuance certificate authorizing the county treasurer to issue a school permit. In order to obtain an issuance certificate, the applicant shall present (a) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (i) the effects of the consumption of alcohol on a person operating a motor vehicle, (ii) occupant protection systems, (iii) risk assessment, and (iv) railroad crossing safety and (b)(i) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (ii) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. The department may waive the written examination if the applicant has been issued an LPE-learner's permit or LPD-learner's permit and if such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPE-learner's permit.

(2) A person holding a school permit may operate a motor vehicle, moped, or motorcycle or an autocycle:

(a) To and from where he or she attends school and between schools of enrollment over the most direct and accessible route by the nearest highway from his or her place of residence to transport such person or any family member who resides with such person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he or she attends; or

(b) Under the personal supervision of a licensed operator. Such licensed operator shall be at least twenty-one years of age and licensed by this state or another state and shall (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, actually occupy the seat beside the permitholder, (ii) in the case of an autocycle, actually occupy the seat beside or behind the permitholder, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, if the permitholder is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(3) The holder of a school permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subsection shall be accomplished only as a secondary

action when the holder of the school permit has been cited or charged with a violation of some other law.

(4) A person who is younger than sixteen years of age but is over fourteen years of age may be issued an LPE-learner's permit, which permit shall be valid for a period of three months. An LPE-learner's permit shall not be issued until such person successfully completes a written examination prescribed by the department and demonstrates that he or she has sufficient powers of eyesight to safely operate a motor vehicle, moped, or motorcycle or an autocycle.

(5)(a) While holding the LPE-learner's permit, the person may operate a motor vehicle on the highways of this state if (i) for all motor vehicles other than autocycles, motorcycles, or mopeds, he or she has seated next to him or her a person who is a licensed operator, (ii) in the case of an autocycle, he or she has seated next to or behind him or her a person who is a licensed operator, or (iii) in the case of a motorcycle, other than an autocycle, or a moped, he or she is within visual contact of and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed motor vehicle or motorcycle operator shall be at least twenty-one years of age and licensed by this state or another state.

(b) The holder of an LPE-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPE-learner's permit has been cited or charged with a violation of some other law.

(6) Department personnel or the county treasurer shall collect the fee and surcharge prescribed in section 60-4,115 from each successful applicant for a school or LPE-learner's permit. All school permits shall be subject to impoundment or revocation under the terms of section 60-496. Any person who violates the terms of a school permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(7) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 74; Laws 1998, LB 320, § 11; Laws 2001, LB 387, § 8; Laws 2001, LB 574, § 18; Laws 2005, LB 675, § 4; Laws 2006, LB 853, § 9; Laws 2007, LB415, § 6; Laws 2008, LB911, § 18; Laws 2012, LB751, § 28; Laws 2015, LB231, § 25; Laws 2016, LB311, § 15; Laws 2016, LB814, § 1; Laws 2018, LB909, § 82.

Effective date April 12, 2018.

60-4,125 LPD-learner's permit; LPE-learner's permit; violations; impoundment or revocation of permit; effect on eligibility for operator's license; not eligible for ignition interlock permit.

(1) For any minor convicted or adjudicated of violating the terms of an LPD-learner's permit issued pursuant to section 60-4,123 or an LPE-learner's permit issued pursuant to section 60-4,124, the court shall, in addition to any other penalty or disposition, order the impoundment or revocation of such learner's

permit and order that such minor shall not be eligible for another operator's license or school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds an LPD-learner's permit issued pursuant to section 60-4,123 and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an ignition interlock permit.

(3) A copy of the court's abstract or adjudication shall be transmitted to the director who shall place in an impound status or revoke the LPD-learner's or LPE-learner's permit of such minor in accordance with the order of the court and not again issue another operator's license or school, farm, LPD-learner's, or LPE-learner's permit to such minor until such minor has attained the age of sixteen years.

Source: Laws 1963, c. 359, § 7, p. 1153; R.S.1943, (1988), § 60-409.05; Laws 1989, LB 285, § 75; Laws 1991, LB 420, § 13; Laws 1998, LB 320, § 12; Laws 2001, LB 38, § 34; Laws 2004, LB 353, § 1; Laws 2012, LB751, § 29.

60-4,126 Farm permit; issuance; violations; penalty; not eligible for ignition interlock permit.

(1) Any person who is younger than sixteen years of age but is over thirteen years of age and resides upon a farm in this state or is fourteen years of age or older and is employed for compensation upon a farm in this state may obtain a farm permit authorizing the operation of farm tractors, minitrucks, and other motorized implements of farm husbandry upon the highways of this state if the applicant for such farm permit furnishes satisfactory proof of age and satisfactorily demonstrates that he or she has knowledge of the operation of such equipment and of the rules of the road and laws respecting the operation of motor vehicles upon the highways of this state. Any person under sixteen years of age but not less than thirteen years of age may obtain a temporary permit to operate such equipment for a six-month period after presentation to the department of a request for the temporary permit signed by the person's parent or guardian and payment of the fee and surcharge prescribed in section 60-4,115. After the expiration of the six-month period, it shall be unlawful for such person to operate such equipment upon the highways of this state unless he or she has been issued a farm permit under this section. The fee for an original, renewal, or replacement farm permit shall be the fee and surcharge prescribed in section 60-4,115. All farm permits shall be subject to revocation under the terms of section 60-496. Any person who violates the terms of a farm permit shall be guilty of an infraction and shall not be eligible for another school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

(2) Any person who holds a permit issued under this section and has violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an ignition interlock permit.

Source: Laws 1989, LB 285, § 76; Laws 1993, LB 491, § 13; Laws 1998, LB 320, § 13; Laws 2001, LB 574, § 19; Laws 2008, LB911, § 19; Laws 2010, LB650, § 31; Laws 2012, LB751, § 30; Laws 2014, LB777, § 9.

60-4,127 Motorcycle operation; Class M license required; issuance; examination.

(1) No person shall operate a motorcycle on the alleys or highways of the State of Nebraska until such person has obtained a Class M license. No such license shall be issued until the applicant has (a) met the vision and physical requirements established under section 60-4,118 for operation of a motor vehicle and (b) successfully completed an examination, including the actual operation of a motorcycle, prescribed by the director, except that the required examination may be waived, including the actual operation of a motorcycle, if the applicant presents proof of successful completion of a motorcycle safety course under the Motorcycle Safety Education Act within the immediately preceding twenty-four months.

(2) Department personnel shall conduct the examination of the applicants and deliver to each successful applicant an issuance certificate or a receipt. If department personnel issue a receipt, department personnel shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt with driving privileges which is valid for up to thirty days. In counties where the county treasurer collects fees and issues receipts, the certificate may be presented to the county treasurer within ninety days after issuance. Upon presentation of an issuance certificate, the county treasurer shall collect the fee and surcharge for a Class M license as prescribed by section 60-4,115 and issue a receipt with driving privileges which is valid for up to thirty days. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant. The license shall be delivered as provided in section 60-4,113. If the applicant is the holder of an operator's license, the county treasurer or department personnel shall have endorsed on the license the authorization to operate a motorcycle. Fees for Class M licenses shall be as provided by section 60-4,115.

(3) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1967, c. 234, § 8, p. 626; Laws 1971, LB 962, § 1; Laws 1974, LB 328, § 2; Laws 1974, LB 821, § 13; Laws 1977, LB 90, § 2; Laws 1981, LB 22, § 15; Laws 1986, LB 1004, § 1; R.S. 1943, (1988), § 60-403.01; Laws 1989, LB 285, § 77; Laws 1990, LB 369, § 17; Laws 1993, LB 201, § 3; Laws 1993, LB 370, § 88; Laws 1999, LB 704, § 25; Laws 2001, LB 574, § 20; Laws 2008, LB911, § 20; Laws 2011, LB170, § 3; Laws 2011, LB215, § 18; Laws 2016, LB311, § 16; Laws 2018, LB909, § 83.
Effective date April 12, 2018.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-4,128 Motorcycle operation without Class M license; penalty.

(1) Any person violating the provisions of section 60-4,127 shall be guilty of a traffic infraction and shall upon conviction thereof be fined not less than ten dollars nor more than one hundred dollars. In addition, a person operating a motorcycle without a Class M license may be required to complete the basic motorcycle safety course as provided in the Motorcycle Safety Education Act.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1971, LB 1041, § 1; Laws 1975, LB 328, § 4; R.S.1943, (1988), § 60-403.04; Laws 1989, LB 285, § 78; Laws 1990, LB 827, § 1; Laws 2018, LB909, § 84.

Effective date April 12, 2018.

Cross References

Motorcycle Safety Education Act, see section 60-2120.

60-4,129 Employment driving permit; issuance; conditions; violations; penalty; revocation.

(1) Any person whose operator's license is revoked under section 60-4,183 or 60-4,186 or suspended under section 43-3318 shall be eligible to operate any motor vehicle, except a commercial motor vehicle, in this state under an employment driving permit. An employment driving permit issued due to a revocation under section 60-4,183 or 60-4,186 is valid for the period of revocation. An employment driving permit issued due to a suspension of an operator's license under section 43-3318 is valid for no more than three months and cannot be renewed.

(2) Any person whose operator's license has been suspended or revoked pursuant to any law of this state, except section 43-3318, 60-4,183, or 60-4,186, shall not be eligible to receive an employment driving permit during the period of such suspension or revocation.

(3) A person who is issued an employment driving permit may operate any motor vehicle, except a commercial motor vehicle, (a) from his or her residence to his or her place of employment and return and (b) during the normal course of employment if the use of a motor vehicle is necessary in the course of such employment. Such permit shall indicate for which purposes the permit may be used. All permits issued pursuant to this section shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

(4) The operation of a motor vehicle by the holder of an employment driving permit, except as provided in this section, shall be unlawful. Any person who violates this section shall be guilty of a Class IV misdemeanor.

(5) The director shall revoke a person's employment driving permit upon receipt of an abstract of conviction, other than a conviction which is based upon actions which resulted in the application for such employment driving permit, indicating that the person committed an offense for which points are assessed pursuant to section 60-4,182. If the permit is revoked in this manner, the person shall not be eligible to receive an employment driving permit for the remainder of the period of suspension or revocation of his or her operator's license.

Source: Laws 1975, LB 259, § 5; Laws 1977, LB 41, § 15; Laws 1982, LB 568, § 8; Laws 1986, LB 779, § 1; R.S.1943, (1988), § 39-669.34; Laws 1989, LB 285, § 79; Laws 1992, LB 291, § 16; Laws 1993, LB 370, § 89; Laws 1997, LB 752, § 140; Laws 2003, LB 209, § 10; Laws 2010, LB805, § 6; Laws 2011, LB667, § 30; Laws 2011, LB675, § 3.

60-4,130.03 Operator less than twenty-one years of age; driver improvement course; suspension; reinstatement.

(1) Any person less than twenty-one years of age who holds an operator's license or a provisional operator's permit and who has accumulated, within any twelve-month period, a total of six or more points on his or her driving record pursuant to section 60-4,182 shall be notified by the Department of Motor Vehicles of that fact and ordered to attend and successfully complete a driver improvement course consisting of at least eight hours of department-approved instruction. Notice shall be sent by regular United States mail to the last-known address as shown in the records of the department. If such person fails to complete the driver improvement course within three months after the date of notification, he or she shall have his or her operator's license suspended by the department.

(2) The director shall issue an order summarily suspending an operator's license until the licensee turns twenty-one years of age. Such order shall be sent by regular United States mail to the last-known address as shown in the records of the department. Such person shall not have his or her operator's license reinstated until he or she (a) has successfully completed the driver improvement course or has attained the age of twenty-one years and (b) has complied with section 60-4,100.01.

Source: Laws 1998, LB 320, § 14; Laws 2001, LB 38, § 35; Laws 2012, LB751, § 31.

60-4,130.04 Commercial driver safety course instructors; requirements; driver safety course; requirements.

Commercial driver safety course instructors shall possess competence as outlined in rules and regulations adopted and promulgated by the Department of Motor Vehicles. Instructors who teach the department-approved driver safety course in a public school or institution and possess competence as outlined in a driver's education endorsement shall be eligible to sign a form prescribed by the department or electronically submit test results to the department showing successful completion of the driver safety course. Each public school or institution offering a department-approved driver safety course shall be required to obtain a certificate and pay the fee pursuant to section 60-4,130.05. The Nebraska Safety Center shall offer a department-approved driver safety course at least once each year in any county where no approved course is offered.

Source: Laws 1998, LB 320, § 15; Laws 2018, LB909, § 85.
Effective date April 12, 2018.

(h) PROVISIONS APPLICABLE TO OPERATION
OF COMMERCIAL MOTOR VEHICLES

60-4,131 Sections; applicability; terms, defined.

(1) Sections 60-462.01 and 60-4,132 to 60-4,172 shall apply to the operation of any commercial motor vehicle.

(2) For purposes of such sections:

(a) Disqualification means:

(i) The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;

(ii) A determination by the Federal Motor Carrier Safety Administration, under the rules of practice for motor carrier safety contained in 49 C.F.R. part

386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. part 391; or

(iii) The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. 383.51;

(b) Downgrade means the state:

(i) Allows the driver of a commercial motor vehicle to change his or her self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 C.F.R. part 391, as provided in 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3;

(ii) Allows the driver of a commercial motor vehicle to change his or her self-certification to intrastate only, if the driver qualifies under a state's physical qualification requirements for intrastate only;

(iii) Allows the driver of a commercial motor vehicle to change his or her certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of a state driver qualification requirement; or

(iv) Removes the commercial driver's license privilege from the operator's license;

(c) Employee means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; and leased drivers and independent, owner-operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer;

(d) Employer means any person, including the United States, a state, the District of Columbia, or a political subdivision of a state, that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle;

(e) Endorsement means an authorization to an individual's CLP-commercial learner's permit or commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(f) Foreign means outside the fifty United States and the District of Columbia;

(g) Imminent hazard means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment;

(h) Issue and issuance means initial issuance, transfer, renewal, or upgrade of a CLP-commercial learner's permit, commercial driver's license, nondomiciled CLP-commercial learner's permit, or nondomiciled commercial driver's license, as described in 49 C.F.R. 383.73;

(i) Medical examiner means an individual certified by the Federal Motor Carrier Safety Administration and listed on the National Registry of Certified Medical Examiners in accordance with 49 C.F.R. part 390, subpart D;

(j) Medical examiner's certificate means a form meeting the requirements of 49 C.F.R. 391.43 issued by a medical examiner in compliance with such regulation;

(k) Medical variance means the Federal Motor Carrier Safety Administration has provided a driver with either an exemption letter permitting operation of a

commercial motor vehicle pursuant to 49 C.F.R. 381, subpart C, or 49 C.F.R. 391.64 or a Skill Performance Evaluation Certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. 391.49;

(l) Nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license means a CLP-commercial learner's permit or commercial driver's license, respectively, issued by this state or other jurisdiction under either of the following two conditions:

(i) To an individual domiciled in a foreign country meeting the requirements of 49 C.F.R. 383.23(b)(1); or

(ii) To an individual domiciled in another state meeting the requirements of 49 C.F.R. 383.23(b)(2);

(m) Representative vehicle means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate;

(n) State means a state of the United States and the District of Columbia;

(o) State of domicile means that state where a person has his or her true, fixed, and permanent home and principal residence and to which he or she has the intention of returning whenever he or she is absent;

(p) Tank vehicle means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks that have an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more and that are either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle;

(q) Third-party skills test examiner means a person employed by a third-party tester who is authorized by this state to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

(r) Third-party tester means a person, including, but not limited to, another state, a motor carrier, a private driver training facility or other private institution, or a department, agency, or instrumentality of a local government, authorized by this state to employ skills test examiners to administer the commercial driver's license skills tests specified in 49 C.F.R. part 383, subparts G and H;

(s) United States means the fifty states and the District of Columbia; and

(t) Vehicle group means a class or type of vehicle with certain operating characteristics.

Source: Laws 1989, LB 285, § 81; Laws 1990, LB 980, § 11; Laws 1993, LB 420, § 5; Laws 1996, LB 323, § 2; Laws 2003, LB 562, § 7; Laws 2005, LB 76, § 7; Laws 2011, LB178, § 5; Laws 2014, LB983, § 20; Laws 2016, LB666, § 4; Laws 2016, LB977, § 14; Laws 2018, LB629, § 2; Laws 2018, LB909, § 86.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB629, section 2, with LB909, section 86, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB629 became effective July 19, 2018.

60-4,131.01 Individuals operating commercial motor vehicles for military purposes; applicability of sections.

Sections 60-462.01 and 60-4,132 to 60-4,172 shall not apply to individuals who operate commercial motor vehicles for military purposes, including and limited to:

- (1) Active duty military personnel;
- (2) Members of the military reserves, other than military technicians;
- (3) Active duty United States Coast Guard personnel; and
- (4) Members of the National Guard on active duty, including:
 - (a) Personnel on full-time National Guard duty;
 - (b) Personnel on part-time National Guard training; and
 - (c) National Guard military technicians required to wear military uniforms.

Such individuals must have a valid military driver's license unless such individual is operating the vehicle under written orders from a commanding officer in an emergency declared by the federal government or by the State of Nebraska.

Source: Laws 2006, LB 853, § 13; Laws 2011, LB178, § 6; Laws 2014, LB983, § 21; Laws 2018, LB629, § 3; Laws 2018, LB909, § 87.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB629, section 3, with LB909, section 87, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB629 became effective July 19, 2018.

60-4,132 Purposes of sections.

The purposes of sections 60-462.01, 60-4,133, and 60-4,137 to 60-4,172 are to implement the requirements mandated by the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31100 et seq., the federal Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, and federal regulations and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by: (1) Permitting drivers to hold only one operator's license; (2) disqualifying drivers for specified offenses and serious traffic violations; and (3) strengthening licensing and testing standards.

Source: Laws 1989, LB 285, § 82; Laws 1993, LB 7, § 2; Laws 1993, LB 420, § 6; Laws 2002, LB 499, § 1; Laws 2003, LB 562, § 8; Laws 2005, LB 76, § 8; Laws 2011, LB178, § 7; Laws 2014, LB983, § 22; Laws 2018, LB629, § 4; Laws 2018, LB909, § 88.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB629, section 4, with LB909, section 88, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB629 became effective July 19, 2018.

60-4,133 Person possessing commercial driver's license authorizing operation of Class A combination vehicle; rights.

Any person possessing a valid commercial driver's license authorizing the operation of a Class A combination vehicle may lawfully operate a Class A, B, or C commercial motor vehicle without a hazardous materials endorsement if such person:

- (1) Is acting within the scope of his or her employment as an employee of a custom harvester operation, agricultural business, farm retail outlet and supplier, or livestock feeder; and
- (2) Is operating a service vehicle that is:

- (a) Transporting diesel fuel in a quantity of one thousand gallons or less; and
- (b) Clearly marked with a “flammable” or “combustible” placard, as appropriate.

Source: Laws 2018, LB629, § 5.
Effective date July 19, 2018.

60-4,134 Holder of Class A commercial driver’s license; hazardous materials endorsement not required; conditions.

In conformance with section 7208 of the federal Fixing America’s Surface Transportation Act and 49 C.F.R. 383.3(i), as such section and regulation existed on January 1, 2018, no hazardous materials endorsement authorizing the holder of a Class A commercial driver’s license to operate a commercial motor vehicle transporting diesel fuel shall be required if such driver is (1) operating within the state and acting within the scope of his or her employment as an employee of a custom harvester operation, an agrichemical business, a farm retail outlet and supplier, or a livestock feeder and (2) operating a service vehicle that is (a) transporting diesel in a quantity of one thousand gallons or less and (b) clearly marked with a flammable or combustible placard, as appropriate.

Source: Laws 2018, LB909, § 90.
Effective date April 12, 2018.

60-4,137 Operation of commercial motor vehicle; valid commercial driver’s license or valid CLP-commercial learner’s permit required.

Any resident of this state operating a commercial motor vehicle on the highways of this state shall possess a valid commercial driver’s license or a valid CLP-commercial learner’s permit issued pursuant to the Motor Vehicle Operator’s License Act.

Source: Laws 1989, LB 285, § 87; Laws 1993, LB 7, § 3; Laws 1993, LB 420, § 7; Laws 2001, LB 108, § 1; Laws 2003, LB 562, § 9; Laws 2005, LB 76, § 9; Laws 2011, LB178, § 8; Laws 2014, LB983, § 23.

60-4,138 Commercial drivers’ licenses and restricted commercial drivers’ licenses; classification.

(1) Commercial drivers’ licenses and restricted commercial drivers’ licenses shall be issued by the department in compliance with 49 C.F.R. parts 383 and 391, shall be classified as provided in subsection (2) of this section, and shall bear such endorsements and restrictions as are provided in subsections (3) and (4) of this section.

(2) Commercial motor vehicle classifications for purposes of commercial drivers’ licenses shall be as follows:

(a) Class A Combination Vehicle — Any combination of motor vehicles and towed vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds if the gross vehicle weight rating of the vehicles being towed are in excess of ten thousand pounds;

(b) Class B Heavy Straight Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more

or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds; and

(c) Class C Small Vehicle — Any single commercial motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such commercial motor vehicle towing a vehicle with a gross vehicle weight rating not exceeding ten thousand pounds comprising:

(i) Motor vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Motor vehicles used in the transportation of hazardous materials and required to be placarded pursuant to section 75-364.

(3) The endorsements to a commercial driver's license shall be as follows:

(a) T — Double/triple trailers;

(b) P — Passenger;

(c) N — Tank vehicle;

(d) H — Hazardous materials;

(e) X — Combination tank vehicle and hazardous materials; and

(f) S — School bus.

(4) The restrictions to a commercial driver's license shall be as follows:

(a) E — No manual transmission equipped commercial motor vehicle;

(b) K — Operation of a commercial motor vehicle only in intrastate commerce;

(c) L — Operation of only a commercial motor vehicle which is not equipped with air brakes;

(d) M — Operation of a commercial motor vehicle which is not a Class A bus;

(e) N — Operation of a commercial motor vehicle which is not a Class A or Class B bus;

(f) O — No tractor-trailer commercial motor vehicle;

(g) V — Operation of a commercial motor vehicle for drivers with medical variance documentation. The documentation shall be required to be carried on the driver's person while operating a commercial motor vehicle; and

(h) Z — No full air brake equipped commercial motor vehicle.

Source: Laws 1989, LB 285, § 88; Laws 1990, LB 980, § 14; Laws 1993, LB 420, § 8; Laws 1996, LB 938, § 1; Laws 2003, LB 562, § 10; Laws 2006, LB 1007, § 6; Laws 2011, LB178, § 9; Laws 2014, LB983, § 24.

60-4,139 Commercial motor vehicle; nonresident; operating privilege.

Any nonresident may operate a commercial motor vehicle upon the highways of this state if (1) such nonresident has in his or her immediate possession a valid commercial driver's license or a valid commercial learner's permit issued by his or her state of residence or by a jurisdiction with standards that are in accord with 49 C.F.R. parts 383 and 391, (2) the license or permit is not suspended, revoked, or canceled, (3) such nonresident is not disqualified from

operating a commercial motor vehicle, and (4) the commercial motor vehicle is not operated in violation of any downgrade.

Source: Laws 1989, LB 285, § 89; Laws 2001, LB 108, § 2; Laws 2006, LB 853, § 10; Laws 2011, LB178, § 10; Laws 2014, LB983, § 25.

60-4,141 Operation outside classification of license; restrictions; violation; penalty.

(1) Except as provided in subsections (2), (3), and (4) of this section, no person shall operate any class of commercial motor vehicle upon the highways of this state unless such person possesses a valid commercial driver's license authorizing the operation of the class of commercial motor vehicle being operated, except that (a) any person possessing a valid commercial driver's license authorizing the operation of a Class A commercial motor vehicle may lawfully operate any Class B or C commercial motor vehicle and (b) any person possessing a valid commercial driver's license authorizing the operation of a Class B commercial motor vehicle may lawfully operate a Class C commercial motor vehicle. No person shall operate upon the highways of this state any commercial motor vehicle which requires a specific endorsement unless such person possesses a valid commercial driver's license with such endorsement. No person possessing a restricted commercial driver's license shall operate upon the highways of this state any commercial motor vehicle to which such restriction is applicable.

(2)(a) Any person holding a CLP-commercial learner's permit may operate a commercial motor vehicle for learning purposes upon the highways of this state if accompanied by a person who is twenty-one years of age or older, who holds a commercial driver's license valid for the class of commercial motor vehicle being operated, and who occupies the seat beside the person for the purpose of giving instruction in the operation of the commercial motor vehicle. Any person holding a CLP-commercial learner's permit may operate a commercial motor vehicle upon the highways of this state for purposes of taking a driving skills examination if accompanied by licensing staff who is designated by the director under section 60-4,149 or an examiner employed by a third-party tester certified pursuant to section 60-4,158 and who occupies the seat beside the person for the purpose of giving the examination. A person holding a CLP-commercial learner's permit shall not operate a commercial motor vehicle transporting hazardous materials. A holder of a commercial learner's permit may operate a Class A combination vehicle, Class B heavy straight vehicle, or Class C small vehicle, as appropriate.

(b) A CLP-commercial learner's permit shall only be allowed to bear any of the following endorsements: (i) P — Passenger; (ii) S — School bus; and (iii) N — Tank vehicle.

(c) A CLP-commercial learner's permit shall only be allowed to bear any of the following restrictions: (i) K — Operation of a commercial motor vehicle only in intrastate commerce; (ii) L — Operation of only a commercial motor vehicle which is not equipped with air brakes; (iii) V — Operation of a commercial motor vehicle for drivers with medical variance documentation; (iv) P — No passengers in commercial motor vehicle bus; and (v) X — No cargo in commercial motor vehicle tank vehicle.

(3) Except for nonresident individuals who are enrolled and taking training in a driver training school in this state, any holder of a nonresident commercial

learner's permit or nonresident commercial driver's license who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued CLP-commercial learner's permit or commercial driver's license and shall surrender to the department any operator's license issued to such nonresident by any other state.

(4) Except for individuals who are enrolled and taking training in a driver training school in this state, any holder of a nondomiciled commercial learner's permit or nondomiciled commercial driver's license issued by another state who is in this state for a period of thirty consecutive days or more shall apply for a Nebraska-issued CLP-commercial learner's permit or commercial driver's license and shall surrender to the department any operator's license issued to such individual by any other state.

(5) An operator's license surrendered pursuant to this section may be returned to the driver after the license has been perforated with the word "VOID".

(6) Any person who operates a commercial motor vehicle upon the highways of this state in violation of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1989, LB 285, § 91; Laws 1990, LB 980, § 15; Laws 1993, LB 7, § 4; Laws 1999, LB 704, § 28; Laws 2005, LB 76, § 10; Laws 2014, LB983, § 26.

60-4,142 CLP-commercial learner's permit issuance; renewal.

Any resident or nondomiciled applicant may obtain a CLP-commercial learner's permit from the department by making application to licensing staff of the department. An applicant shall present proof to licensing staff that he or she holds a valid Class O license or commercial driver's license or a foreign nondomiciled applicant shall successfully complete the requirements for the Class O license before a CLP-commercial learner's permit is issued. An applicant shall also successfully complete the commercial driver's license general knowledge examination under section 60-4,155 and examinations for all previously issued endorsements as provided in 49 C.F.R. 383.25(a)(3) and 49 C.F.R. 383.153(b)(2)(vii). Upon application, the examination may be waived if the applicant presents a Nebraska commercial driver's license which is valid or has been expired for less than one year, presents a valid commercial driver's license from another state, or is renewing a CLP-commercial learner's permit. The CLP-commercial learner's permit shall be valid for a period of one hundred eighty days. The CLP-commercial learner's permit holder may renew the CLP-commercial learner's permit for an additional one hundred eighty days without retaking the general and endorsement knowledge tests. The successful applicant shall pay the fee prescribed in section 60-4,115 for the issuance or renewal of a CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 92; Laws 1990, LB 980, § 17; Laws 1998, LB 320, § 17; Laws 2001, LB 108, § 3; Laws 2001, LB 574, § 23; Laws 2003, LB 562, § 13; Laws 2006, LB 853, § 11; Laws 2012, LB751, § 32; Laws 2014, LB983, § 27; Laws 2016, LB311, § 17.

60-4,143 Commercial driver's license; CLP-commercial learner's permit; issuance; restriction; surrender of other licenses.

(1) No commercial driver's license or CLP-commercial learner's permit shall, under any circumstances, be issued to any person who has not attained the age of eighteen years.

(2) A commercial driver's license or CLP-commercial learner's permit shall not be issued to any person during the period the person is subject to a disqualification in this or any other state, while the person's operator's license is suspended, revoked, or canceled in this or any other state, or when the Commercial Driver License Information System indicates "not-certified".

(3) The department shall not issue any commercial driver's license to any person unless the person applying for a commercial driver's license first surrenders to the department all operators' licenses issued to such person by this or any other state. Any operator's license issued by another state which is surrendered to the department shall be destroyed, and the director shall send notice to the other state that the operator's license has been surrendered.

Source: Laws 1989, LB 285, § 93; Laws 2005, LB 76, § 11; Laws 2011, LB178, § 11; Laws 2014, LB983, § 28.

60-4,144 Commercial driver's license; CLP-commercial learner's permit; applications; contents; application; demonstration of knowledge and skills; information and documentation required; verification.

(1) An applicant for issuance of any original or renewal commercial driver's license or an applicant for a change of class of commercial motor vehicle, endorsement, or restriction shall demonstrate his or her knowledge and skills for operating a commercial motor vehicle as prescribed in the Motor Vehicle Operator's License Act. An applicant for a commercial driver's license shall provide the information and documentation required by this section and section 60-4,144.01. Such information and documentation shall include any additional information required by 49 C.F.R. parts 383 and 391 and also include:

(a) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate; and

(b) The names of all states where the applicant has been licensed to operate any type of motor vehicle in the ten years prior to the date of application.

(2)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, the applicant shall provide (i) his or her full legal name, date of birth, mailing address, gender, race or ethnicity, and social security number, (ii) two forms of proof of address of his or her principal residence unless the applicant is a program participant under the Address Confidentiality Act, except that a nondomiciled applicant for a CLP-commercial learner's permit or nondomiciled commercial driver's license holder does not have to provide proof of residence in Nebraska, (iii) evidence of identity as required by this section, and (iv) a brief physical description of himself or herself.

(b) The applicant's social security number shall not be printed on the CLP-commercial learner's permit or commercial driver's license and shall be used only (i) to furnish information to the United States Selective Service System under section 60-483, (ii) with the permission of the director in connection with the certification of the status of an individual's driving record in this state or any other state, (iii) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06, (iv) to furnish information regarding an appli-

cant for or holder of a commercial driver's license with a hazardous materials endorsement to the Transportation Security Administration of the United States Department of Homeland Security or its agent, (v) to furnish information to the Department of Revenue under section 77-362.02, or (vi) to furnish information to the Secretary of State for purposes of the Election Act.

(c) No person shall be a holder of a CLP-commercial learner's permit or commercial driver's license and a state identification card at the same time.

(3) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant, except a nondomiciled applicant, shall provide proof that this state is his or her state of residence. Acceptable proof of residence is a document with the person's name and residential address within this state.

(4)(a) Before being issued a CLP-commercial learner's permit or commercial driver's license, an applicant shall provide proof of identity.

(b) The following are acceptable as proof of identity:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A valid, unexpired permanent resident card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services;

(v) An unexpired employment authorization document issued by the United States Department of Homeland Security;

(vi) An unexpired foreign passport with a valid, unexpired United States visa affixed accompanied by the approved form documenting the applicant's most recent admittance into the United States;

(vii) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(viii) A Certificate of Citizenship issued by the United States Department of Homeland Security;

(ix) A driver's license or identification card issued in compliance with the standards established by the REAL ID Act of 2005, Public Law 109-13, division B, section 1, 119 Stat. 302; or

(x) Such other documents as the director may approve.

(c) If an applicant presents one of the documents listed under subdivision (b)(i), (ii), (iii), (iv), (vii), or (viii) of this subsection, the verification of the applicant's identity will also provide satisfactory evidence of lawful status.

(d) If the applicant presents one of the identity documents listed under subdivision (b)(v), (vi), or (ix) of this subsection, the verification of the identity documents does not provide satisfactory evidence of lawful status. The applicant must also present a second document from subdivision (4)(b) of this section, a document from subsection (5) of this section, or documentation issued by the United States Department of Homeland Security or other federal agencies demonstrating lawful status as determined by the United States Citizenship and Immigration Services.

(e) An applicant may present other documents as designated by the director as proof of identity. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(5)(a) Whenever a person is renewing, replacing, upgrading, transferring, or applying as a nondomiciled individual to this state for a CLP-commercial learner's permit or commercial driver's license, the Department of Motor Vehicles shall verify the citizenship in the United States of the person or the lawful status in the United States of the person.

(b) The following are acceptable as proof of citizenship or lawful status:

(i) A valid, unexpired United States passport;

(ii) A certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) A Consular Report of Birth Abroad issued by the United States Department of State;

(iv) A Certificate of Naturalization issued by the United States Department of Homeland Security;

(v) A Certificate of Citizenship issued by the United States Department of Homeland Security; or

(vi) A valid, unexpired Permanent Resident Card issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(6) An applicant may present other documents as designated by the director as proof of lawful status. Any documents accepted shall be recorded according to a written exceptions process established by the director.

(7)(a) An applicant shall obtain a nondomiciled CLP-commercial driver's license or nondomiciled CLP-commercial learner's permit:

(i) If the applicant is domiciled in a foreign jurisdiction and the Federal Motor Carrier Safety Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of 49 C.F.R. part 383; or

(ii) If the applicant is domiciled in a state that is prohibited from issuing commercial learners' permits and commercial drivers' licenses in accordance with 49 C.F.R. 384.405. Such person is eligible to obtain a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license from Nebraska that complies with the testing and licensing standards contained in subparts F, G, and H of 49 C.F.R. part 383.

(b) An applicant for a nondomiciled CLP-commercial learner's permit and nondomiciled commercial driver's license must do the following:

(i) Complete the requirements to obtain a CLP-commercial learner's permit or a commercial driver's license under the Motor Vehicle Operator's License Act, except that an applicant domiciled in a foreign jurisdiction must provide an unexpired employment authorization document issued by the United States Citizenship and Immigration Services or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required;

(ii) After receipt of the nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license and, for as long as the permit or license is valid, notify the Department of Motor Vehicles of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his or her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in 49 C.F.R. 383.51. Notifications must be made within the time periods specified in 49 C.F.R. 383.33; and

(iii) Provide a mailing address to the Department of Motor Vehicles. If the applicant is applying for a foreign nondomiciled CLP-commercial learner's permit or foreign nondomiciled commercial driver's license, he or she must provide a Nebraska mailing address and his or her employer's mailing address to the Department of Motor Vehicles.

(c) An applicant for a nondomiciled CLP-commercial learner's permit or nondomiciled commercial driver's license who holds a foreign operator's license is not required to surrender his or her foreign operator's license.

(8) Any person applying for a CLP-commercial learner's permit or commercial driver's license may answer the following:

(a) Do you wish to register to vote as part of this application process?

(b) Do you wish to have the word "veteran" displayed on the front of your operator's license to show that you served in the armed forces of the United States? (To be eligible you must register with the Nebraska Department of Veterans' Affairs registry.)

(c) Do you wish to include your name in the Donor Registry of Nebraska and donate your organs and tissues at the time of your death?

(d) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(e) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(9) Application for a CLP-commercial learner's permit or commercial driver's license shall include a signed oath, affirmation, or declaration of the applicant that the information provided on the application for the permit or license is true and correct.

(10) Any person applying for a CLP-commercial learner's permit or commercial driver's license must make one of the certifications in section 60-4,144.01 and any certification required under section 60-4,146 and must provide such certifications to the Department of Motor Vehicles in order to be issued a CLP-commercial learner's permit or a commercial driver's license.

(11) Every person who holds any commercial driver's license must provide to the department medical certification as required by section 60-4,144.01. The department may provide notice and prescribe medical certification compliance requirements for all holders of commercial drivers' licenses. Holders of commercial drivers' licenses who fail to meet the prescribed medical certification compliance requirements may be subject to downgrade.

Source: Laws 1989, LB 285, § 94; Laws 1992, LB 1178, § 4; Laws 1994, LB 76, § 575; Laws 1997, LB 635, § 21; Laws 1999, LB 147, § 3; Laws 1999, LB 704, § 29; Laws 2000, LB 1317, § 8; Laws 2001, LB 34, § 5; Laws 2003, LB 228, § 13; Laws 2003, LB 562, § 14; Laws 2004, LB 208, § 7; Laws 2004, LB 559, § 4; Laws 2005, LB

76, § 12; Laws 2008, LB911, § 21; Laws 2011, LB178, § 12; Laws 2011, LB215, § 19; Laws 2012, LB751, § 33; Laws 2014, LB983, § 29; Laws 2015, LB575, § 29; Laws 2016, LB47, § 3; Laws 2016, LB311, § 18.

Cross References

Address Confidentiality Act, see section 42-1201.

Donor Registry of Nebraska, see section 71-4822.

Election Act, see section 32-101.

Nebraska Department of Veterans' Affairs registry, see section 80-414.

60-4,144.01 Commercial drivers' licenses; certification required; medical examiner's certificate.

Certification shall be made as follows:

(1) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. part 391, and is required to obtain a medical examiner's certificate by 49 C.F.R. 391.45. The medical examination required in order to obtain a medical examiner's certificate shall be conducted by a medical examiner who is listed on the National Registry of Certified Medical Examiners. Any nonexcepted holder of a commercial learner's permit or commercial driver's license who certifies that he or she will operate a commercial motor vehicle in nonexcepted, interstate commerce must maintain a current medical examiner's certificate and provide a copy of it to the department in order to maintain his or her medical certification status;

(2) A person must certify that he or she operates or expects to operate a commercial motor vehicle in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or part of the qualification requirements of 49 C.F.R. part 391, and is therefor not required to obtain a medical examiner's certificate by 49 C.F.R. 391.45;

(3) A person must certify that he or she operates a commercial motor vehicle only in intrastate commerce and therefor is subject to state driver qualification requirements as provided in section 75-363; or

(4) A person must certify that he or she operates a commercial motor vehicle in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

Source: Laws 2011, LB178, § 13; Laws 2014, LB983, § 30; Laws 2016, LB666, § 5.

60-4,144.02 Commercial drivers' licenses; CLP-commercial learner's permit; medical examiner's certificate; department; duties; failure of driver to comply; department; duties.

(1) For each operator of a commercial motor vehicle required to have a commercial driver's license or CLP-commercial learner's permit, the department, in compliance with 49 C.F.R. 383.73, shall:

(a) Post the driver's self-certification of type of driving under 49 C.F.R. 383.71(a)(1)(ii);

(b) Retain the medical examiner's certificate of any driver required to provide documentation of physical qualification for three years beyond the date the certificate was issued; and

(c) Post the information from the medical examiner's certificate within ten calendar days to the Commercial Driver License Information System driver record, including:

- (i) The medical examiner's name;
- (ii) The medical examiner's telephone number;
- (iii) The date of the medical examiner's certificate issuance;
- (iv) The medical examiner's license number and the state that issued it;
- (v) The medical examiner's National Registry identification number (if the National Registry of Medical Examiners, mandated by 49 U.S.C. 31149(d), requires one);
- (vi) The indicator of the medical certification status, either "certified" or "not-certified";
- (vii) The expiration date of the medical examiner's certificate;
- (viii) The existence of any medical variance on the medical certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;
- (ix) Any restrictions, for example, corrective lenses, hearing aid, or required to have possession of an exemption letter or Skill Performance Evaluation certificate while on duty; and
- (x) The date the medical examiner's certificate information was posted to the Commercial Driver License Information System driver record.

(2) The department shall, within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, update the medical certification status of that driver as "not-certified".

(3) Within ten calendar days of receiving information from the Federal Motor Carrier Safety Administration regarding issuance or renewal of a medical variance for a driver, the department shall update the Commercial Driver License Information System driver record to include the medical variance information provided by the Federal Motor Carrier Safety Administration.

(4)(a) If a driver's medical certification or medical variance expires, or the Federal Motor Carrier Safety Administration notifies the department that a medical variance was removed or rescinded, the department shall:

(i) Notify the holder of the commercial driver's license or CLP-commercial learner's permit of his or her "not-certified" medical certification status and that the CLP-commercial learner's permit or commercial driver's license privilege will be removed from the driver's license or permit unless the driver submits a current medical certificate or medical variance or changes his or her self-certification to driving only in excepted or intrastate commerce, if permitted by the department; and

(ii) Initiate established department procedures for downgrading the license. The commercial driver's license downgrade shall be completed and recorded within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) If a driver fails to provide the department with the certification contained in 49 C.F.R. 383.71(a)(1)(ii), or a current medical examiner's certificate if the driver self-certifies according to 49 C.F.R. 383.71(a)(1)(ii)(A) that he or she is operating in nonexcepted interstate commerce as required by 49 C.F.R. 383.71(h), the department shall mark that Commercial Driver License Informa-

tion System driver record as “not-certified” and initiate a commercial driver’s license downgrade following department procedures in accordance with subdivision (4)(a)(ii) of this section. The CLP-commercial learner’s permit or commercial driver’s license shall be canceled and marked as “not-certified”.

Source: Laws 2011, LB178, § 14; Laws 2014, LB983, § 31; Laws 2016, LB666, § 6.

60-4,144.03 Temporary CLP-commercial learner’s permit or commercial driver’s license; issuance; renewal.

(1) The department shall issue a CLP-commercial learner’s permit or a commercial driver’s license that is temporary only to any applicant who presents documentation under section 60-4,144 that shows his or her authorized stay in the United States is temporary. A CLP-commercial learner’s permit or a commercial driver’s license that is temporary shall be valid only during the period of time of the applicant’s authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(2) A CLP-commercial learner’s permit or a commercial driver’s license that is temporary shall clearly indicate that it is temporary with a special notation that states the date on which it expires.

(3) A CLP-commercial learner’s permit or a commercial driver’s license that is temporary may be renewed only upon presentation of valid documentary evidence that the status, by which the applicant qualified for the CLP-commercial learner’s permit or commercial driver’s license that is temporary, has been extended by the United States Department of Homeland Security.

Source: Laws 2014, LB983, § 32.

60-4,144.04 CLP-commercial learner’s permit; precondition to issuance of commercial driver’s license.

(1) The issuance of a CLP-commercial learner’s permit is a precondition to the initial issuance of a commercial driver’s license. The issuance of a CLP-commercial learner’s permit is also a precondition to the upgrade of a commercial driver’s license if the upgrade requires a skills test, however, the CLP-commercial learner’s permit holder is not eligible to take the skills test in the first fourteen days after initial issuance of the CLP-commercial learner’s permit.

(2) The CLP-commercial learner’s permit holder is not eligible to take the commercial driver’s license skills test in the first fourteen days after initial issuance of the CLP-commercial learner’s permit.

Source: Laws 2014, LB983, § 33.

60-4,145 Repealed. Laws 2014, LB983, § 69.

60-4,146 Application; requirements of federal law; certification.

(1) In addition to certifying himself or herself under this section, an applicant shall also certify himself or herself under section 60-4,144.01.

(2) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and who is not subject to 49 C.F.R. part 391 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant

making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(3) Upon making application pursuant to section 60-4,144 or 60-4,148.01, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that the applicant meets the qualification requirements of 49 C.F.R. part 391.

(4) Upon making application for a CLP-commercial learner's permit or commercial driver's license, any applicant who operates or expects to operate a commercial motor vehicle solely in intrastate commerce and who is not subject to 49 C.F.R. part 391 adopted pursuant to section 75-363 shall certify that he or she is not subject to 49 C.F.R. part 391. Any applicant making certification pursuant to this subsection shall meet the physical and vision requirements established in section 60-4,118 and shall be subject to the provisions of such section.

(5) An applicant who certifies that he or she is not subject to 49 C.F.R. part 391 under subsection (2) or (4) of this section shall answer the following questions on the application:

(a) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(i) lost voluntary control or consciousness ... yes ... no

(ii) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(iii) experienced disorientation ... yes ... no

(iv) experienced seizures ... yes ... no

(v) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(b) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(c) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:

Source: Laws 1989, LB 285, § 96; Laws 1990, LB 980, § 19; Laws 1994, LB 211, § 11; Laws 1996, LB 938, § 2; Laws 1998, LB 320, § 18; Laws 1999, LB 704, § 31; Laws 2006, LB 1007, § 8; Laws 2011, LB178, § 16; Laws 2012, LB751, § 34; Laws 2014, LB983, § 34; Laws 2016, LB977, § 16; Laws 2017, LB644, § 15.

60-4,147.01 Driver's record; disclosure of convictions; requirements.

The department, a prosecutor, or a court must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP-commercial learner's permit driver's conviction or commercial driver's license driver's conviction for any violation, in any type of motor

vehicle, of a state or local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state.

Source: Laws 2005, LB 76, § 16; Laws 2014, LB983, § 35.

60-4,147.02 Hazardous materials endorsement; USA PATRIOT Act requirements.

No endorsement authorizing the driver to operate a commercial motor vehicle transporting hazardous materials shall be issued, renewed, or transferred by the Department of Motor Vehicles unless the endorsement is issued, renewed, or transferred in conformance with the requirements of section 1012 of the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, USA PATRIOT Act, 49 U.S.C. 5103a, including all amendments and federal regulations adopted pursuant thereto as of January 1, 2018, for the issuance of licenses to operate commercial motor vehicles transporting hazardous materials.

Source: Laws 2005, LB 76, § 17; Laws 2006, LB 853, § 12; Laws 2007, LB239, § 5; Laws 2008, LB756, § 17; Laws 2009, LB331, § 10; Laws 2010, LB805, § 7; Laws 2011, LB212, § 6; Laws 2012, LB751, § 35; Laws 2013, LB35, § 5; Laws 2014, LB776, § 6; Laws 2015, LB313, § 6; Laws 2016, LB929, § 8; Laws 2017, LB263, § 67; Laws 2018, LB909, § 89.
Effective date April 12, 2018.

60-4,147.03 Hazardous materials endorsement; application process.

An applicant for a new, renewal, or transferred hazardous materials endorsement shall complete an application process including threat assessment, background check, fingerprints, and payment of fees as prescribed by 49 C.F.R. 1522, 1570, and 1572. Upon receipt of a determination of threat assessment from the Transportation Security Administration of the United States Department of Homeland Security or its agent, the department shall retain the application for not less than one year.

Source: Laws 2005, LB 76, § 18; Laws 2016, LB666, § 7.

60-4,148 Commercial drivers' licenses; issuance.

(1) All commercial drivers' licenses shall be issued by the department as provided in sections 60-4,148.01 and 60-4,149. Successful applicants shall pay the fee and surcharge prescribed in section 60-4,115.

(2) Any person making application to add or remove a class of commercial motor vehicle, any endorsement, or any restriction to or from a previously issued and outstanding commercial driver's license shall pay the fee and surcharge prescribed in section 60-4,115. The fee for an original or renewal seasonal permit to revalidate the restricted commercial motor vehicle operating privilege to a previously issued and outstanding restricted commercial driver's license shall be the fee and surcharge prescribed in section 60-4,115.

Source: Laws 1989, LB 285, § 98; Laws 1990, LB 980, § 20; Laws 1991, LB 854, § 2; Laws 1993, LB 420, § 10; Laws 1997, LB 752,

§ 143; Laws 1998, LB 309, § 9; Laws 1999, LB 704, § 33; Laws 2001, LB 574, § 24; Laws 2008, LB911, § 22; Laws 2016, LB977, § 17.

60-4,148.01 Commercial drivers' licenses; CLP-commercial learners' permits; electronic renewal and replacement; department; duties; applicant; requirements; renewal; fee and surcharge; delivery.

(1) The department may develop and offer methods for successful applicants to obtain commercial drivers' licenses electronically and for the electronic renewal and replacement of commercial drivers' licenses and CLP-commercial learners' permits.

(2)(a) An applicant who has successfully passed the knowledge and skills tests for a commercial driver's license pursuant to section 60-4,149 and who has a digital image and digital signature preserved in the digital system that is not more than ten years old may obtain a commercial driver's license using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a license pursuant to this subsection:

(i) There must have been no changes to the applicant's name since his or her most recent application for a CLP-commercial learner's permit;

(ii) The new license must not contain a hazardous materials endorsement;

(iii) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iv) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) The successful applicant shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the license by mail.

(3)(a) An applicant whose commercial driver's license or CLP-commercial learner's permit expires prior to his or her seventy-second birthday and who has a digital image and digital signature preserved in the digital system may, once every ten years, renew such license or permit using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible for renewal under this subsection:

(i) The renewal must be prior to or within one year after expiration of such license or permit;

(ii) The driving record abstract maintained in the department's computerized records must show that such license or permit is not suspended, revoked, canceled, or disqualified;

(iii) There must be no changes to the applicant's name or to the class, endorsements, or restrictions on such license or permit;

(iv) The applicant must not hold a hazardous materials endorsement or must relinquish such endorsement;

(v) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(vi) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) Every applicant seeking renewal of his or her commercial driver's license or CLP-commercial learner's permit must apply for renewal in person at least once every ten years and have a new digital image and digital signature captured.

(d) An applicant seeking renewal under this subsection (3) shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the renewal license or permit by mail.

(4)(a) Any person holding a commercial driver's license or CLP-commercial learner's permit who has a digital image and digital signature not more than ten years old preserved in the digital system and who loses his or her license or permit, who requires issuance of a replacement license or permit because of a change of address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit using the preserved digital image and digital signature by electronic means in a manner prescribed by the department pursuant to this subsection.

(b) To be eligible to obtain a replacement license or permit pursuant to this subsection:

(i) There must be no changes to the applicant's name and no changes to the class, endorsements, or restrictions on such license or permit;

(ii) The applicant must meet the requirements of section 60-4,144 and submit the information and documentation and make the certifications required under section 60-4,144; and

(iii) The applicant must satisfy any other eligibility criteria that the department may prescribe pursuant to subsection (6) of this section.

(c) An application for a replacement license or permit because of a change of address shall be made within sixty days after the change of address.

(d) An applicant seeking replacement under this subsection (4) shall pay the fee and surcharge prescribed in section 60-4,115. Upon receipt of such fee and surcharge and an application it deems satisfactory, the department shall deliver the replacement license or permit by mail. The replacement license or permit shall be subject to the provisions of subsection (4) of section 60-4,150.

(5) An application to obtain a commercial driver's license or to renew or replace a commercial driver's license or CLP-commercial learner's permit because of a change of name may not be made electronically pursuant to this section and shall be made in person at a licensing station within sixty days after the change of name.

(6) The department may adopt and promulgate rules and regulations governing eligibility for the use of electronic methods for successful applicants to obtain commercial drivers' licenses and for the renewal and replacement of commercial drivers' licenses and CLP-commercial learners' permits, taking into consideration medical and vision requirements, safety concerns, and any other factors consistent with the purposes of the Motor Vehicle Operator's License Act that the director deems relevant.

Source: Laws 2016, LB977, § 15.

60-4,149 Commercial driver's license; CLP-commercial learner's permit; department personnel; examination; office space; issuance; delivery; electronic submission.

(1) The director shall appoint as his or her agents one or more department personnel who shall examine all applicants for a commercial driver's license or a CLP-commercial learner's permit as provided in section 60-4,144. The same department personnel may be assigned to one or more counties by the director. In counties in which the county treasurer collects the fees and issues receipts, the county shall furnish office space for the administration of the license or permit examination. Department personnel shall conduct the examination of applicants and deliver to each successful applicant an issuance certificate or receipt. The certificate may be presented to the county treasurer within ninety days after issuance, and the county treasurer shall collect the fee and surcharge as provided in section 60-4,115 and issue a receipt which is valid for up to thirty days. If a commercial driver's license or CLP-commercial learner's permit is being issued, the receipt shall also authorize driving privileges for such thirty-day period. If department personnel refuse to issue an issuance certificate or receipt, the department personnel shall state such cause in writing and deliver such written cause to the applicant.

(2)(a) The segments of the driving skills examination shall be administered and successfully completed in the following order: Pre-trip inspection, basic vehicle control skills, and on-road skills. If an applicant fails one segment of the driving skills examination:

(i) The applicant cannot continue to the next segment of the examination; and

(ii) Scores for the passed segments of the examination are only valid during initial issuance of a CLP-commercial learner's permit. If a CLP-commercial learner's permit is renewed, all three segments of the skills examination must be retaken.

(b) Passing scores for the knowledge and skills tests must meet the standards contained in 49 C.F.R. 383.135.

(3) Except as provided for in sections 60-4,157 and 60-4,158, all commercial driver's license examinations shall be conducted by department personnel designated by the director. Each successful applicant shall be issued a certificate or receipt entitling the applicant to secure a commercial driver's license. If department personnel refuse to issue such certificate or receipt, he or she shall state such cause in writing and deliver the same to the applicant. Department personnel shall not be required to hold a commercial driver's license to administer a driving skills examination and occupy the seat beside an applicant for a commercial driver's license.

(4) The successful applicant shall, within ten days after renewal or within twenty-four hours after initial issuance, pay the fee and surcharge as provided in section 60-4,115. A receipt with driving privileges which is valid for up to thirty days shall be issued. The commercial driver's license shall be delivered to the applicant as provided in section 60-4,113.

(5) In lieu of proceeding under subsection (4) of this section, the successful applicant may pay the fee and surcharge as provided in section 60-4,115 and

electronically submit an application prescribed by the department in a manner prescribed by the department pursuant to section 60-4,148.01.

Source: Laws 1989, LB 285, § 99; Laws 1990, LB 980, § 21; Laws 1999, LB 704, § 34; Laws 2008, LB911, § 23; Laws 2011, LB215, § 20; Laws 2014, LB983, § 36; Laws 2016, LB311, § 19; Laws 2016, LB977, § 18.

60-4,149.01 Commercial drivers' licenses; law examination; exceptions; waiver.

(1) A commercial driver's license examiner shall not require the commercial driver's license knowledge examination, except the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement, if the applicant renews his or her commercial driver's license prior to its expiration or within one year after its expiration and if the applicant's driving record abstract maintained in the department's computerized records shows that his or her commercial driver's license is not suspended, revoked, canceled, or disqualified.

(2) A nonresident who holds a valid commercial driver's license from another state shall not be required to take the commercial driver's license knowledge examination, except the hazardous material portion of the examination and any knowledge examinations not previously taken for that class of commercial motor vehicle or endorsement, if the nonresident commercial driver's license holder surrenders his or her valid out-of-state commercial driver's license to licensing staff.

Source: Laws 1993, LB 420, § 9; Laws 1996, LB 938, § 3; Laws 1999, LB 704, § 35; Laws 2001, LB 387, § 9; Laws 2005, LB 76, § 13; Laws 2014, LB983, § 37.

60-4,149.02 Commercial drivers' licenses; driving skills examination; exemption for driver with military commercial motor vehicle experience; conditions and limitations; applicant; certification.

A commercial driver's license examiner shall not require the driving skills examination for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his or her application for a commercial driver's license and may substitute an applicant's driving record in combination with certain driving experience. The department may impose conditions and limitations as allowed under 49 C.F.R. 383 to restrict the applicants from whom the department may accept alternative requirements for the driving skills examination authorized in section 60-4,155. Such conditions and limitations shall require at least the following:

(1) An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he or she:

(a) Has not had more than one operator's license, except for a military operator's license;

(b) Has not had any operator's license suspended, revoked, or canceled;

(c) Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 49 C.F.R. 383.51(b);

(d) Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 49 C.F.R. 383.51(c);

(e) Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(f) Has no record of an accident in which he or she was at fault; and

(2) An applicant must provide evidence and certify that he or she:

(a) Is regularly employed or was regularly employed within the last ninety days in a military position requiring operation of a commercial motor vehicle;

(b) Was exempted from the commercial driver's license requirements in 49 C.F.R. 383.3(c); and

(c) Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate, for at least two years immediately preceding discharge from the military.

Source: Laws 2014, LB983, § 40.

60-4,150 Commercial driver's license; CLP-commercial learner's permit; replacement; application; delivery.

(1) Any person holding a commercial driver's license or CLP-commercial learner's permit who loses his or her license or permit, who requires issuance of a replacement license or permit because of a change of name or address, or whose license or permit is mutilated or unreadable may obtain a replacement commercial driver's license or CLP-commercial learner's permit by filing an application pursuant to this section and by furnishing proof of identification in accordance with section 60-4,144. Any person seeking a replacement license or permit for such reasons, except because of a change of name, may also obtain a replacement license or permit by submitting an electronic application pursuant to section 60-4,148.01.

(2) An application for a replacement license or permit because of a change of name or address shall be made within sixty days after the change of name or address.

(3) A replacement commercial driver's license or CLP-commercial learner's permit issued pursuant to this section shall be delivered to the applicant as provided in section 60-4,113 after department personnel or the county treasurer collects the fee and surcharge prescribed in section 60-4,115 and issues the applicant a receipt with driving privileges which is valid for up to thirty days. Replacement commercial drivers' licenses or CLP-commercial learners' permits issued pursuant to this section shall be issued in the manner provided for the issuance of original and renewal commercial drivers' licenses or permits as provided for by section 60-4,149.

(4) Upon issuance of any replacement commercial driver's license or permit, the commercial driver's license or CLP-commercial learner's permit for which the replacement license or permit is issued shall be void. Each replacement commercial driver's license or CLP-commercial learner's permit shall be issued with the same expiration date as the license or permit for which the replacement is issued. The replacement license or permit shall also state the new issuance date.

Source: Laws 1989, LB 285, § 100; Laws 1990, LB 980, § 22; Laws 1993, LB 126, § 2; Laws 1998, LB 309, § 10; Laws 2001, LB 574, § 25; Laws 2005, LB 1, § 9; Laws 2008, LB911, § 24; Laws 2010,

LB805, § 8; Laws 2011, LB215, § 21; Laws 2014, LB777, § 10; Laws 2014, LB983, § 38; Laws 2016, LB311, § 20; Laws 2016, LB977, § 19.

60-4,151 Commercial driver's license; RCDL-restricted commercial driver's license; SEP-seasonal permit; CLP-commercial learner's permit; form.

(1)(a) The commercial driver's license shall be conspicuously marked Nebraska Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The commercial driver's license shall be marked Nondomiciled if the license is a nondomiciled commercial driver's license.

(b) The form of the commercial driver's license shall also comply with section 60-4,117.

(2) The RCDL-restricted commercial driver's license shall be conspicuously marked Nebraska Restricted Commercial Driver's License and shall be, to the maximum extent practicable, tamper and forgery proof. The RCDL-restricted commercial driver's license shall contain such additional information as deemed necessary by the director.

(3) The SEP-seasonal permit shall contain such information as deemed necessary by the director but shall include the time period during which the commercial motor vehicle operating privilege is effective. The SEP-seasonal permit shall be valid only when held in conjunction with an RCDL-restricted commercial driver's license.

(4) The CLP-commercial learner's permit shall be conspicuously marked Nebraska Commercial Learner's Permit and shall be, to the maximum extent practicable, tamper and forgery proof. The permit shall also be marked Nondomiciled if the permit is a nondomiciled CLP-commercial learner's permit.

Source: Laws 1989, LB 285, § 101; Laws 1992, LB 1178, § 5; Laws 1993, LB 420, § 11; Laws 2001, LB 34, § 6; Laws 2001, LB 574, § 26; Laws 2008, LB911, § 25; Laws 2011, LB215, § 22; Laws 2014, LB983, § 39.

60-4,153 Issuance of license; department; duties.

Prior to the issuance of any original or renewal commercial driver's license, the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, or the issuance of a CLP-commercial learner's permit, the department shall, within twenty-four hours prior to issuance if the applicant does not currently possess a valid commercial driver's license or CLP-commercial learner's permit issued by this state and within ten days prior to the issuance or reissuance for all other applicants:

(1) Check the driving record of the applicant as maintained by the department or by any other state which has issued an operator's license to the applicant;

(2) Contact the Commercial Driver License Information System to determine whether the applicant possesses any valid commercial driver's license or commercial learner's permit issued by any other state, whether such license or permit or the applicant's privilege to operate a commercial motor vehicle has been suspended, revoked, or canceled, or whether the applicant has been disqualified from operating a commercial motor vehicle; and

(3) Contact the National Driver Register to determine if the applicant (a) has been disqualified from operating any motor vehicle, (b) has had an operator's license suspended, revoked, or canceled for cause in the three-year period ending on the date of application, (c) has been convicted of operation of a motor vehicle while under the influence of or while impaired by alcohol or a controlled substance, a traffic violation arising in connection with a fatal traffic accident, reckless driving, racing on the highways, failure to render aid or provide identification when involved in an accident which resulted in a fatality or personal injury, or perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law, rule, or regulation related to the operation of a motor vehicle, (d) is not eligible, or (e) is deceased.

Source: Laws 1989, LB 285, § 103; Laws 1999, LB 704, § 36; Laws 2011, LB178, § 17; Laws 2014, LB983, § 41.

60-4,154 Issuance of license or permit; director notify Commercial Driver License Information System; department; post information.

(1) Prior to the issuance of any original or renewal commercial driver's license, the reissuance of any commercial driver's license with a change of any classification, endorsement, or restriction, or the issuance of a CLP-commercial learner's permit, the director shall notify the Commercial Driver License Information System of the issuance and shall provide the applicant's name, social security number, and any other required information to the operator of the system.

(2) The department shall post information from the medical examiner's certificate to the Commercial Driver License Information System in accordance with section 60-4,144.02 and 49 C.F.R. 383.73.

Source: Laws 1989, LB 285, § 104; Laws 2011, LB178, § 18; Laws 2014, LB983, § 42.

60-4,156 Repealed. Laws 2014, LB983, § 69.

60-4,157 Driving skills examination; waiver based on third-party tester; licensure in another state; report of examination results.

(1) A commercial driver's license examiner may waive the driving skills examination when an applicant presents evidence, on a form to be prescribed by the director, that he or she has successfully passed a driving skills examination administered by a third-party tester.

(2) A third-party skills test examiner may administer a driving skills examination to an applicant who has taken training in this state but is to be licensed in another state. The driving skills examination results shall be reported by the third-party skills test examiner to the department. The department shall transmit electronically the driving skills examination results directly from this state to the licensing state in an efficient and secure manner to be determined by the director.

(3) A third-party skills test examiner who is also a skills instructor either as part of a school, training program, or otherwise is prohibited from administering a skills test to an applicant who received skills training by that skills test examiner.

Source: Laws 1989, LB 285, § 107; Laws 2014, LB983, § 43.

60-4,158 Third-party testers; applicant; criminal history record check; fingerprints; rules and regulations; fees; violation; penalty.

(1) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department. Such rules and regulations shall substantially comply with the requirements of 49 C.F.R. 383.75. A third-party skills test examiner employed by a certified third-party tester is not required to hold a commercial driver's license to administer a driving skills examination and occupy the seat beside an applicant for a commercial driver's license.

(2)(a) An applicant to be certified as a third-party skills test examiner shall provide fingerprints to the Nebraska State Patrol. The Nebraska State Patrol shall undertake a search for criminal history record information relating to such applicant, including transmittal of the applicant's fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information shall include information concerning the applicant from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report to the department that includes the criminal history record information concerning the applicant. The applicant shall pay the actual cost of the fingerprinting and criminal background check.

(b) A third-party skills test examiner shall be subject to a national criminal history record information check.

(c) The department shall maintain a record of the results of the criminal background check and third-party skills test examiner test training and certification of all third-party skills test examiners.

(d) The department shall rescind the certification to administer commercial driver's license tests of all third-party skills test examiners who:

(i) Do not successfully complete the required refresher training every four years; or

(ii) Do not pass a national criminal history record information check. Criteria for not passing the criminal background check must include at least the following:

(A) Any felony conviction within the last ten years; or

(B) Any conviction involving fraudulent activities.

(3) A certification to conduct third-party testing shall be valid for two years, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. The department shall remit the fees collected to the State Treasurer for credit to the General Fund.

(4) Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his or her certification revoked by the department.

Source: Laws 1989, LB 285, § 108; Laws 1999, LB 704, § 37; Laws 2014, LB983, § 44.

60-4,159 Licensee; permit holder; convictions; disqualifications; notification required; violation; penalty.

(1) Any person possessing a commercial driver's license or CLP-commercial learner's permit issued by the department shall, within ten days after the date

of conviction, notify the department of all convictions for violations of state law or local ordinance related to motor vehicle traffic control, except parking violations, when such convictions occur in another state.

(2) Any person possessing a commercial driver's license or CLP-commercial learner's permit issued by the department who is convicted of violating any state law or local ordinance related to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(3) Any person possessing a commercial driver's license or CLP-commercial learner's permit issued by the department whose commercial driver's license or CLP-commercial learner's permit is suspended, revoked, or canceled by any state, who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(4) Any person who fails to provide the notifications required in subsection (1), (2), or (3) of this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1989, LB 285, § 109; Laws 2005, LB 76, § 14; Laws 2014, LB983, § 45.

60-4,160 Refusal or denial of application; notice; appeal.

Written notice shall be delivered to any applicant whose application for a commercial driver's license or CLP-commercial learner's permit is refused or denied for cause. The applicant shall have a right to an immediate appeal to the director upon receipt of such notice. The director shall hear the appeal and render a prompt finding not later than ten days after receipt of the appeal.

Source: Laws 1989, LB 285, § 110; Laws 2014, LB983, § 46.

60-4,162 Employment as driver; employer; duties; violation; penalty.

(1) Each employer shall require prospective applicants for employment as a driver of a commercial motor vehicle to provide the information required by section 60-4,161.

(2) No employer may knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in the United States in any of the following circumstances:

(a) During any period in which the driver does not have a current commercial learner's permit or commercial driver's license or does not have a commercial learner's permit or commercial driver's license with the proper class or endorsements. An employer may not use a driver to operate a commercial motor vehicle who violates any restriction on the driver's commercial learner's permit or commercial driver's license;

(b) During any period in which the driver has a commercial learner's permit or commercial driver's license disqualified by a state, has lost the right to operate a commercial motor vehicle in a state, or has been disqualified from operating a commercial motor vehicle;

(c) During any period in which the driver has more than one commercial learner's permit or commercial driver's license;

(d) During any period in which the driver, the commercial motor vehicle he or she is operating, or the motor carrier operation is subject to an out-of-service order; or

(e) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(3) Any employer who violates this section shall, upon conviction, be guilty of a Class III misdemeanor.

Source: Laws 1989, LB 285, § 112; Laws 2002, LB 499, § 2; Laws 2014, LB983, § 47.

60-4,164 Alcoholic liquor; implied consent to submit to chemical tests; refusal or failure; penalty; officer; report.

(1) Any person who operates or is in the actual physical control of a commercial motor vehicle upon a highway in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the amount of alcoholic content in his or her blood or breath.

(2) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village who, after stopping or detaining the operator of any commercial motor vehicle, has reasonable grounds to believe that the operator was driving or in the actual physical control of a commercial motor vehicle while having any alcoholic liquor in his or her body may require such operator to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the alcoholic content of such blood or breath.

(3) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person who operates or has in his or her actual physical control a commercial motor vehicle upon a highway in this state to submit to a preliminary breath test of his or her breath for alcoholic content if the officer has reasonable grounds to believe that such person has any alcoholic liquor in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any such person who refuses to submit to a preliminary breath test shall be placed under arrest and shall be guilty of a Class V misdemeanor. Any person arrested for refusing to submit to a preliminary breath test or any person who submits to a preliminary breath test the results of which indicate the presence of any alcoholic liquor in such person's body may, upon the direction of a law enforcement officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the alcoholic content.

(4) Any person operating or in the actual physical control of a commercial motor vehicle who submits to a chemical test or tests of his or her blood or breath which discloses the presence of any alcoholic liquor in his or her body shall be placed out of service for twenty-four hours by the law enforcement officer.

(5) Any person operating or in the actual physical control of a commercial motor vehicle who refuses to submit to a chemical test or tests of his or her blood or breath or any person operating or in the actual physical control of a commercial motor vehicle who submits to a chemical test or tests of his or her

blood or breath which discloses an alcoholic concentration of: (a) Four-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or (b) four-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath shall be placed out of service for twenty-four hours by the law enforcement officer, and the officer shall forward to the director a sworn report. The director may accept a sworn report submitted electronically. The report shall state that the person was operating or in the actual physical control of a commercial motor vehicle, was requested to submit to the required chemical test or tests, and refused to submit to the required chemical test or tests or submitted to the required chemical test or tests and possessed an alcohol concentration at or in excess of that specified by this subsection.

(6) Any person involved in a commercial motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood or breath by any law enforcement officer if the officer has reasonable grounds to believe that such person was driving or was in actual physical control of a commercial motor vehicle on a highway in this state while under the influence of alcoholic liquor at the time of the accident. A person involved in a commercial motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test or tests of his or her blood or breath by reason of leaving this state. If the person refuses a test or tests under this section and leaves the state for any reason following an accident, he or she shall remain subject to this section upon return.

Source: Laws 1989, LB 285, § 114; Laws 1992, LB 872, § 6; Laws 1993, LB 191, § 2; Laws 1996, LB 323, § 6; Laws 2011, LB667, § 31.

60-4,167 Alcoholic liquor; officer's report; notice of disqualification; hearing before director; procedure.

Upon receipt of a law enforcement officer's sworn report provided for in section 60-4,164, the director shall serve the notice of disqualification to the person who is the subject of the report by regular United States mail to the person's last-known address appearing on the records of the director. If the address on the director's records differs from the address on the arresting officer's report, the notice of disqualification shall be sent to both addresses. The notice of disqualification shall contain a statement explaining the operation of the disqualification procedure and the rights of the person. The director shall also provide to the person a self-addressed envelope and a petition form which the person may use to request a hearing before the director to contest the disqualification. The petition form shall clearly state on its face that the petition must be completed and delivered to the department or postmarked within ten days after receipt or the person's right to a hearing to contest the disqualification will be foreclosed. The director shall prescribe and approve the form for the petition, the self-addressed envelope, and the notice of disqualification. If not contested, the disqualification shall automatically take effect thirty days after the date of mailing of the notice of disqualification by the director. Any chemical test or tests made under section 60-4,164, if made in conformity with the requirements of section 60-6,201, shall be competent evidence of the alcoholic content of such person's blood or breath. The commercial driver's license or commercial learner's permit of the person who is the subject of the report shall be automatically disqualified upon the expiration of thirty days

after the date of the mailing of the notice of disqualification by the director. The director shall conduct the hearing in the county in which the violation occurred or in any county agreed to by the parties. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by regular United States mail postmarked at least seven days prior to the hearing date.

After granting the petitioner an opportunity to be heard on such issue, if it is not shown to the director that the petitioner's refusal to submit to such chemical test or tests was reasonable or unless it is shown to the director that the petitioner was not operating or in the actual physical control of a commercial motor vehicle with an alcoholic concentration in his or her blood or breath equal to or in excess of that specified in subsection (5) of section 60-4,164, the director shall enter an order pursuant to section 60-4,169 revoking the petitioner's commercial driver's license or commercial learner's permit and the petitioner's privilege to operate a commercial motor vehicle in this state and disqualifying the person from operating a commercial motor vehicle for the period specified by section 60-4,168.

Source: Laws 1989, LB 285, § 117; Laws 1993, LB 191, § 5; Laws 1993, LB 370, § 92; Laws 1996, LB 323, § 8; Laws 2012, LB751, § 36; Laws 2014, LB983, § 48.

60-4,167.01 Alcoholic liquor; disqualification decision; director; duties.

(1) The director shall reduce the decision disqualifying a commercial driver from operating a commercial motor vehicle pursuant to a hearing under section 60-4,167 to writing and the director shall notify the person in writing of the disqualification within seven days following a hearing. The decision shall set forth the period of disqualification and be served by mailing it to such person by regular United States mail to the address provided to the director at the hearing or, if the person does not appear at the hearing, to the address appearing on the records of the director. If the address on the director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses.

(2) If the director does not disqualify the commercial driver from operating a commercial motor vehicle, the director shall notify the person in writing of the decision within seven days following a hearing. The notice shall be mailed by regular United States mail as provided in subsection (1) of this section. No reinstatement fee shall be charged.

Source: Laws 1996, LB 323, § 9; Laws 2012, LB751, § 37.

60-4,168 Disqualification; when.

(1) Except as provided in subsections (2) and (3) of this section, a person shall be disqualified from operating a commercial motor vehicle for one year upon his or her first conviction, after April 1, 1992, in this or any other state for:

(a) Operating a commercial motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance or, beginning September 30, 2005, operating any motor vehicle in violation of section 60-6,196 or 60-6,197 or under the influence of a controlled substance;

(b) Operating a commercial motor vehicle in violation of section 60-4,163 or 60-4,164;

(c) Leaving the scene of an accident involving a commercial motor vehicle operated by the person or, beginning September 30, 2005, leaving the scene of an accident involving any motor vehicle operated by the person;

(d) Using a commercial motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section or, beginning September 30, 2005, using any motor vehicle in the commission of a felony other than a felony described in subdivision (3)(b) of this section;

(e) Beginning September 30, 2005, operating a commercial motor vehicle after his or her commercial driver's license has been suspended, revoked, or canceled or the driver is disqualified from operating a commercial motor vehicle; or

(f) Beginning September 30, 2005, causing a fatality through the negligent or criminal operation of a commercial motor vehicle.

(2) Except as provided in subsection (3) of this section, if any of the offenses described in subsection (1) of this section occurred while a person was transporting hazardous material in a commercial motor vehicle which required placarding pursuant to section 75-364, the person shall, upon conviction or administrative determination, be disqualified from operating a commercial motor vehicle for three years.

(3) A person shall be disqualified from operating a commercial motor vehicle for life if, after April 1, 1992, he or she:

(a) Is convicted of or administratively determined to have committed a second or subsequent violation of any of the offenses described in subsection (1) of this section or any combination of those offenses arising from two or more separate incidents; or

(b) Beginning September 30, 2005, used a commercial motor vehicle in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance.

(4)(a) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a commercial motor vehicle.

(b) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if he or she is convicted in this or any other state of two serious traffic violations, or not less than one hundred twenty days if he or she is convicted in this or any other state of three serious traffic violations, arising from separate incidents occurring within a three-year period while operating a motor vehicle other than a commercial motor vehicle if the convictions have resulted in the revocation, cancellation, or suspension of the person's operator's license or driving privileges.

(5)(a) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a highway-rail grade crossing shall be disqualified for the period of time specified in subdivision (5)(b) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b)(i) A person shall be disqualified for not less than sixty days if the person is convicted of a first violation described in this subsection.

(ii) A person shall be disqualified for not less than one hundred twenty days if, during any three-year period, the person is convicted of a second violation described in this subsection in separate incidents.

(iii) A person shall be disqualified for not less than one year if, during any three-year period, the person is convicted of a third or subsequent violation described in this subsection in separate incidents.

(6) A person shall be disqualified from operating a commercial motor vehicle for at least one year if, on or after July 8, 2015, the person has been convicted of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license.

(7) If the department receives credible information that a CLP-commercial learner's permit holder or a commercial driver's license holder is suspected, but has not been convicted, on or after July 8, 2015, of fraud related to the issuance of his or her CLP-commercial learner's permit or commercial driver's license, the department must require the driver to retake the skills and knowledge tests. Within thirty days after receiving notification from the department that retesting is necessary, the affected CLP-commercial learner's permit holder or commercial driver's license holder must make an appointment or otherwise schedule to take the next available test. If the CLP-commercial learner's permit holder or commercial driver's license holder fails to make an appointment within thirty days, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the driver fails either the knowledge or skills test or does not take the test, the department must disqualify his or her CLP-commercial learner's permit or commercial driver's license. If the holder of a CLP-commercial learner's permit or commercial driver's license has had his or her CLP-commercial learner's permit or commercial driver's license disqualified, he or she must reapply for a CLP-commercial learner's permit or commercial driver's license under department procedures applicable to all applicants for a CLP-commercial learner's permit or commercial driver's license.

(8) For purposes of this section, controlled substance has the same meaning as in section 28-401.

(9) For purposes of this section, conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law, in a court of original jurisdiction or by an authorized administrative

tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(10) For purposes of this section, serious traffic violation means:

(a) Speeding at or in excess of fifteen miles per hour over the legally posted speed limit;

(b) Willful reckless driving as described in section 60-6,214 or reckless driving as described in section 60-6,213;

(c) Improper lane change as described in section 60-6,139;

(d) Following the vehicle ahead too closely as described in section 60-6,140;

(e) A violation of any law or ordinance related to motor vehicle traffic control, other than parking violations or overweight or vehicle defect violations, arising in connection with an accident or collision resulting in death to any person;

(f) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license;

(g) Beginning September 30, 2005, operating a commercial motor vehicle without a commercial driver's license in the operator's possession;

(h) Beginning September 30, 2005, operating a commercial motor vehicle without the proper class of commercial driver's license and any endorsements, if required, for the specific vehicle group being operated or for the passengers or type of cargo being transported on the vehicle;

(i) Beginning October 27, 2013, texting while driving as described in section 60-6,179.02; and

(j) Using a handheld mobile telephone as described in section 60-6,179.02.

(11) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1989, LB 285, § 118; Laws 1990, LB 980, § 24; Laws 1993, LB 191, § 6; Laws 1993, LB 370, § 93; Laws 1996, LB 323, § 11; Laws 2001, LB 773, § 13; Laws 2002, LB 499, § 3; Laws 2003, LB 562, § 16; Laws 2005, LB 76, § 15; Laws 2012, LB751, § 38; Laws 2014, LB983, § 49; Laws 2016, LB311, § 21; Laws 2016, LB666, § 8; Laws 2017, LB263, § 68.

60-4,168.01 Out-of-service order; violation; disqualification; when.

(1) Except as provided in subsection (2) of this section, a person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting nonhazardous materials shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than one year upon a court conviction for violating an out-of-service order;

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least two years but no more than five years upon a second

court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period; and

(c) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a third or subsequent court conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(2) A person who is convicted of violating an out-of-service order while operating a commercial motor vehicle which is transporting hazardous materials required to be placarded pursuant to section 75-364 or while operating a commercial motor vehicle designed or used to transport sixteen or more passengers, including the driver, shall be subject to disqualification as follows:

(a) A person shall be disqualified from operating a commercial motor vehicle for a period of at least one hundred eighty days but no more than two years upon conviction for violating an out-of-service order; and

(b) A person shall be disqualified from operating a commercial motor vehicle for a period of at least three years but no more than five years upon a second or subsequent conviction for violating an out-of-service order, which arises out of a separate incident, during any ten-year period.

(3) For purposes of this section, out-of-service order has the same meaning as in section 75-362.

(4) Each period of disqualification imposed under this section shall be served consecutively and separately.

Source: Laws 1996, LB 323, § 5; Laws 2003, LB 562, § 17; Laws 2009, LB204, § 2; Laws 2017, LB263, § 69.

60-4,169 Revocation; when.

Whenever it comes to the attention of the director that any person when operating a motor vehicle has, based upon the records of the director, been convicted of or administratively determined to have committed an offense for which disqualification is required pursuant to section 60-4,146.01, 60-4,168, or 60-4,168.01, the director shall summarily revoke (1) the commercial driver's license or CLP-commercial learner's permit and privilege of such person to operate a commercial motor vehicle in this state or (2) the privilege, if such person is a nonresident, of operating a commercial motor vehicle in this state. Any revocation ordered by the director pursuant to this section shall commence on the date of the signing of the order of revocation or the date of the release of such person from the jail or a Department of Correctional Services adult correctional facility, whichever is later, unless the order of the court requires the jail time and the revocation to run concurrently.

Source: Laws 1989, LB 285, § 119; Laws 1993, LB 31, § 19; Laws 1993, LB 420, § 12; Laws 1996, LB 323, § 12; Laws 2001, LB 38, § 37; Laws 2010, LB805, § 9; Laws 2014, LB983, § 50.

60-4,170 Revocation; notice; failure to surrender license or permit; violation; penalty; appeal.

Within ten days after the revocation provided for by section 60-4,169, the director shall notify in writing the person whose commercial driver's license, CLP-commercial learner's permit, or privilege to operate a commercial motor vehicle has been revoked that such license, permit, or privilege has been

revoked. Such notice shall: (1) Contain a list of the disqualifying convictions or administrative determinations upon which the director relies as his or her authority for the revocation, with the dates on which such disqualifying violations occurred and the dates of such convictions or administrative determinations and the trial courts or administrative agencies in which such convictions or administrative determinations were rendered; (2) state the term of revocation; (3) include a demand that the commercial driver's license or CLP-commercial learner's permit be returned to the director immediately; and (4) be served by mailing the notice to such person by regular United States mail to the address of such person. Any person refusing or failing to surrender a commercial driver's license or CLP-commercial learner's permit as required by this section shall, upon conviction, be guilty of a Class III misdemeanor.

Any person who feels himself or herself aggrieved because of a revocation pursuant to section 60-4,169 may appeal from such revocation in the manner set forth in section 60-4,105. Such appeal shall not suspend the order of revocation unless a stay of such revocation shall be allowed by the court pending a final determination of the review. The license of any person claiming to be aggrieved shall not be restored to such person, in the event of a final judgment of a court against such person, until the full time of revocation, as fixed by the director, has elapsed.

Source: Laws 1989, LB 285, § 120; Laws 1999, LB 704, § 38; Laws 2012, LB751, § 39; Laws 2014, LB983, § 51.

60-4,171 Issuance of Class O or M operator's license; reinstatement of commercial driver's license or CLP-commercial learner's permit; when.

(1) Following any period of revocation ordered by a court, a resident who has had a commercial driver's license or CLP-commercial learner's permit revoked pursuant to section 60-4,169 may apply for a Class O or M operator's license.

(2) Any person who has had his or her commercial driver's license or CLP-commercial learner's permit revoked pursuant to section 60-4,169 may, at the end of such revocation period, apply to have his or her eligibility for a commercial driver's license or CLP-commercial learner's permit reinstated. The applicant shall (a) apply to the department and meet the requirements of section 60-4,144, (b) take the commercial driver's license knowledge and driving skills examinations prescribed pursuant to section 60-4,155 if applying for a commercial driver's license, (c) certify pursuant to section 60-4,144.01 and meet the applicable medical requirements for such certification, (d) be subject to a check of his or her driving record, (e) pay the fees specified in section 60-4,115 and a reinstatement fee as provided in section 60-499.01, and (f) surrender any operator's license issued pursuant to subsection (1) of this section.

Source: Laws 1989, LB 285, § 121; Laws 1993, LB 420, § 14; Laws 1993, LB 491, § 14; Laws 1997, LB 752, § 144; Laws 1999, LB 704, § 39; Laws 2001, LB 38, § 38; Laws 2001, LB 574, § 27; Laws 2011, LB178, § 19; Laws 2014, LB983, § 52.

60-4,172 Nonresident licensee or permit holder; conviction within state; director; duties.

(1) Within ten days after receiving an abstract of conviction of any nonresident who holds a commercial learner's permit or commercial driver's license

for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident who holds a commercial learner's permit or commercial driver's license and the Commercial Driver License Information System of such conviction.

(2)(a) Within ten days after disqualifying a nonresident who holds a commercial learner's permit or commercial driver's license or canceling, revoking, or suspending the commercial learner's permit or commercial driver's license held by a nonresident, for a period of at least sixty days, the department shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such action.

(b) The notification shall include both the disqualification and the violation that resulted in the disqualification, cancellation, revocation, or suspension. The notification and the information it provides shall be recorded on the driver's record.

(3) Within ten days after receiving an abstract of conviction of any nonresident who holds a commercial learner's permit or commercial driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in any type of motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident and the Commercial Driver License Information System of such conviction.

(4) Within ten days after receiving an abstract of conviction of any nonresident who holds a driver's license for any violation of state law or local ordinance related to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle operated in this state, the director shall notify the driver licensing authority which licensed the nonresident.

Source: Laws 1989, LB 285, § 122; Laws 2003, LB 562, § 19; Laws 2014, LB983, § 53.

(j) STATE IDENTIFICATION CARDS

60-4,180 State identification card; issuance authorized; prior cards; invalid.

Any person who is a resident of this state may obtain a state identification card with a digital image of the person included. State identification cards shall be issued in the manner provided in section 60-4,181. Any identification card issued under prior law prior to January 1, 1990, shall be invalid after such date.

Source: Laws 1989, LB 284, § 3; Laws 1993, LB 201, § 5; Laws 2001, LB 574, § 28; Laws 2014, LB777, § 11.

Cross References

Application, see section 60-484.
Duplicate or replacement card, see section 60-4,120.
Expiration, see section 60-490.
Photograph affixed to card, see section 60-4,119.
Prohibited acts, see section 60-491.
Renewal procedure, see section 60-4,122.
Violations, penalties, see section 60-491.

60-4,181 State identification cards; issuance; requirements; form; delivery; cancellation.

(1) Each applicant for a state identification card shall provide the information and documentation required by sections 60-484 and 60-484.04. The form of the state identification card shall comply with section 60-4,117. The applicant shall present an issuance certificate to the county treasurer for a state identification card. Department personnel or the county treasurer shall collect the fee and surcharge as prescribed in section 60-4,115 and issue a receipt to the applicant which is valid up to thirty days. The state identification card shall be delivered to the applicant as provided in section 60-4,113.

(2) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application or information presented by the applicant contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application or information presented by the applicant does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

(3) No person shall be a holder of a state identification card and an operator's license at the same time.

Source: Laws 1989, LB 284, § 6; Laws 1989, LB 285, § 130; Laws 1992, LB 1178, § 6; Laws 1993, LB 491, § 15; Laws 1994, LB 76, § 576; Laws 1995, LB 467, § 14; Laws 1996, LB 1073, § 2; Laws 1997, LB 21, § 1; Laws 1997, LB 635, § 22; Laws 1998, LB 309, § 11; Laws 1999, LB 147, § 4; Laws 1999, LB 704, § 41; Laws 2000, LB 1317, § 9; Laws 2001, LB 34, § 7; Laws 2001, LB 574, § 29; Laws 2003, LB 228, § 14; Laws 2004, LB 559, § 5; Laws 2008, LB911, § 26; Laws 2011, LB215, § 23; Laws 2016, LB311, § 22; Laws 2016, LB666, § 9.

(k) POINT SYSTEM

60-4,182 Point system; offenses enumerated.

In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the director. The following point system shall be adopted:

- (1) Conviction of motor vehicle homicide — 12 points;
- (2) Third offense drunken driving in violation of any city or village ordinance or of section 60-6,196, as disclosed by the records of the director, regardless of whether the trial court found the same to be a third offense — 12 points;
- (3) Failure to stop and render aid as required under section 60-697 in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another — 6 points;
- (4) Failure to stop and report as required under section 60-696 or any city or village ordinance in the event of a motor vehicle accident resulting in property damage — 6 points;
- (5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her

blood or per two hundred ten liters of his or her breath in violation of any city or village ordinance or of section 60-6,196 — 6 points;

(6) Willful reckless driving in violation of any city or village ordinance or of section 60-6,214 or 60-6,217 — 6 points;

(7) Careless driving in violation of any city or village ordinance or of section 60-6,212 — 4 points;

(8) Negligent driving in violation of any city or village ordinance — 3 points;

(9) Reckless driving in violation of any city or village ordinance or of section 60-6,213 — 5 points;

(10) Speeding in violation of any city or village ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

(a) Not more than five miles per hour over the speed limit — 1 point;

(b) More than five miles per hour but not more than ten miles per hour over the speed limit — 2 points;

(c) More than ten miles per hour but not more than thirty-five miles per hour over the speed limit — 3 points, except that one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed upon conviction of exceeding by more than fifteen miles per hour but not more than thirty-five miles per hour the speed limits provided for in subdivision (1)(f), (g), (h), or (i) of section 60-6,186; and

(d) More than thirty-five miles per hour over the speed limit — 4 points;

(11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian — 2 points;

(12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian — 4 points;

(13) Using a handheld wireless communication device in violation of section 60-6,179.01 or texting while driving in violation of subsection (1) or (3) of section 60-6,179.02 — 3 points;

(14) Using a handheld mobile telephone in violation of subsection (2) or (4) of section 60-6,179.02 — 3 points;

(15) Unlawful obstruction or interference of the view of an operator in violation of section 60-6,256 — 1 point;

(16) A violation of subsection (1) of section 60-6,175 — 3 points; and

(17) All other traffic violations involving the operation of motor vehicles by the operator for which reports to the Department of Motor Vehicles are required under sections 60-497.01 and 60-497.02 — 1 point.

Subdivision (17) of this section does not include violations involving an occupant protection system or a three-point safety belt system pursuant to section 60-6,270; parking violations; violations for operating a motor vehicle without a valid operator's license in the operator's possession; muffler violations; overwidth, overheight, or overlength violations; autocycle, motorcycle, or moped protective helmet violations; or overloading of trucks.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 60-4,188.

In all cases, the forfeiture of bail not vacated shall be regarded as equivalent to the conviction of the offense with which the operator was charged.

The point system shall not apply to persons convicted of traffic violations committed while operating a bicycle as defined in section 60-611 or an electric personal assistive mobility device as defined in section 60-618.02.

Source: Laws 1953, c. 219, § 1, p. 768; Laws 1955, c. 156, § 1, p. 457; Laws 1957, c. 168, § 1, p. 587; Laws 1957, c. 366, § 26, p. 1261; Laws 1959, c. 169, § 2, p. 617; Laws 1959, c. 174, § 1, p. 625; Laws 1961, c. 185, § 3, p. 571; Laws 1967, c. 235, § 2, p. 630; R.R.S.1943, § 39-7,128; Laws 1974, LB 590, § 1; Laws 1974, LB 873, § 4; Laws 1975, LB 328, § 1; Laws 1975, LB 381, § 4; Laws 1976, LB 265, § 1; Laws 1983, LB 204, § 1; Laws 1985, LB 496, § 2; Laws 1987, LB 224, § 3; Laws 1987, LB 430, § 3; Laws 1988, LB 428, § 6; Laws 1992, LB 958, § 2; R.S.Supp.,1992, § 39-669.26; Laws 1993, LB 370, § 80; Laws 1993, LB 575, § 17; Laws 1996, LB 901, § 2; Laws 2001, LB 166, § 3; Laws 2001, LB 773, § 14; Laws 2002, LB 1105, § 446; Laws 2006, LB 925, § 3; Laws 2007, LB35, § 1; Laws 2008, LB621, § 1; Laws 2010, LB945, § 1; Laws 2011, LB500, § 1; Laws 2012, LB751, § 40; Laws 2012, LB1039, § 1; Laws 2014, LB983, § 54; Laws 2015, LB95, § 8; Laws 2015, LB231, § 26; Laws 2018, LB909, § 91; Laws 2018, LB1009, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB909, section 91, with LB1009, section 2, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB1009 became effective July 19, 2018.

Cross References

Assessment of points when person is placed on probation, see section 60-497.01.

60-4,184 Revocation of license; notice; failure to return license; procedure; penalty; appeal; effect.

Within ten days after the revocation provided for by section 60-4,183, the director shall notify in writing the person whose operator's license has been revoked that such license has been revoked. Such notice shall:

(1) Contain a list of the convictions for violations upon which the director relies as his or her authority for the revocation, with the dates of such violations upon which convictions were had and the dates of such convictions, the trial courts in which such judgments of conviction were rendered, and the points charged for each conviction;

(2) State the term of such revocation;

(3) Include a demand that the license be returned to the director immediately; and

(4) Be served by mailing it to such person by regular United States mail to the last-known residence of such person or, if such address is unknown, to the last-known business address of such person.

If any person fails to return his or her license to the director as demanded, the director shall immediately direct any peace officer or authorized representative of the director to secure possession of such license and return the license to the director. A refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her license as required by this section shall be guilty of a Class III misdemeanor.

Any person who feels aggrieved because of such revocation may appeal from such revocation in the manner set forth in section 60-4,105. Such appeal shall not suspend the order of revocation of such license unless a stay of such order is allowed by a judge of such court pending a final determination of the review. The license of any person claiming to be aggrieved shall not be restored to such person, in the event the final judgment of a court finds against such person, until the full time of revocation, as fixed by the Department of Motor Vehicles, has elapsed.

Source: Laws 1953, c. 219, § 3, p. 770; Laws 1955, c. 157, § 1, p. 460; Laws 1957, c. 242, § 32, p. 845; Laws 1957, c. 366, § 28, p. 1263; Laws 1959, c. 174, § 3, p. 627; R.R.S.1943, § 39-7,130; Laws 1975, LB 263, § 2; Laws 1989, LB 285, § 4; R.S.Supp.,1992, § 39-669.28; Laws 1993, LB 370, § 82; Laws 1999, LB 704, § 42; Laws 2012, LB751, § 41.

(I) VETERAN NOTATION

60-4,189 Operator's license; state identification card; notation of word "veteran"; Department of Motor Vehicles; duties; replacement license or card.

(1) An operator's license or a state identification card shall include a notation of the word "veteran" on the front of the license or card as directed by the department if the individual applying for such license or card is eligible for the license or card and (a) has served on active duty in the armed forces of the United States, other than active duty for training, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) from such service, (b) registers with the Department of Veterans' Affairs pursuant to section 80-414 as verification of such service, and (c) indicates on the application under section 60-484 his or her wish to include such notation on his or her license or card.

(2) The Department of Motor Vehicles shall consult the registry established pursuant to section 80-414 before placing the notation of the word "veteran" on the operator's license or state identification card issued to the applicant. Such notation shall not be authorized unless the registry verifies the applicant's eligibility. If the Director of Motor Vehicles discovers evidence of fraud in an application under this section, the director may summarily cancel the license or state identification card and send notice of the cancellation to the licensee or cardholder. If the Department of Motor Vehicles has information that an individual is no longer eligible for the notation, the department may summarily cancel the license and send notice of the cancellation to the licensee or cardholder. The notation shall not be restored until the Department of Motor Vehicles subsequently verifies the applicant's eligibility by consulting the registry of the Department of Veterans' Affairs.

(3) The notation authorized in subsection (1) of this section shall continue to be included on the license or card upon renewal of such license or card if the licensee or cardholder, at the time of renewal, indicates the desire to include the notation.

(4) An individual may obtain a replacement operator's license or state identification card to add or remove the notation authorized in subsection (1) of this section by applying to the Department of Motor Vehicles for such replacement license or card and, if adding the notation, by meeting the requirements

of subsection (1) of this section. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

Source: Laws 2013, LB93, § 4.

ARTICLE 5
MOTOR VEHICLE SAFETY RESPONSIBILITY

(a) DEFINITIONS

Section

60-501. Terms, defined.

(b) ADMINISTRATION

60-506.01. Report of accident; effect.

(c) SECURITY FOLLOWING ACCIDENT

60-507. Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520. Judgments; payments sufficient to satisfy requirements.

60-547. Bond; proof of financial responsibility.

(a) DEFINITIONS

60-501 Terms, defined.

For purposes of the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

(2) Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes;

(3) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(4) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(5) Low-speed vehicle means a (a) four-wheeled motor vehicle (i) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, and (iii) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018, or (b) three-wheeled motor vehicle (i) whose maximum speed attainable is not more than

twenty-five miles per hour on a paved, level surface, (ii) whose gross vehicle weight rating is less than three thousand pounds, (iii) which is equipped with a windshield and an occupant protection system, and (iv) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018. A motorcycle with a sidecar attached is not a low-speed vehicle;

(6) Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (a) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (b) is sixty-seven inches or less in width, (c) has a dry weight of four thousand two hundred pounds or less, (d) travels on four or more tires, (e) has a top speed of approximately fifty-five miles per hour, (f) is equipped with a bed or compartment for hauling, (g) has an enclosed passenger cab, (h) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (i) has a four-speed, five-speed, or automatic transmission;

(7) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, minitrucks, and low-speed vehicles. Motor vehicle does not include (a) mopeds as defined in section 60-637, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, (i) electric personal assistive mobility devices as defined in section 60-618.02, (j) off-road designed vehicles, including, but not limited to, golf car vehicles, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles and utility-type vehicles as defined in section 60-6,355, minibikes as defined in section 60-636, and snowmobiles as defined in section 60-663, and (k) bicycles as defined in section 60-611;

(8) Nonresident means every person who is not a resident of this state;

(9) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle or the use of a motor vehicle owned by him or her in this state;

(10) Operator means every person who is in actual physical control of a motor vehicle;

(11) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject 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 or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of the act;

(12) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(13) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the

amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(14) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(15) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(16) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Source: Laws 1949, c. 178, § 1, p. 482; Laws 1957, c. 366, § 42, p. 1275; Laws 1959, c. 298, § 1, p. 1107; Laws 1959, c. 299, § 1, p. 1123; Laws 1971, LB 644, § 4; Laws 1972, LB 1196, § 4; Laws 1973, LB 365, § 1; Laws 1979, LB 23, § 14; Laws 1983, LB 253, § 1; Laws 1987, LB 80, § 11; Laws 1993, LB 121, § 385; Laws 1993, LB 370, § 94; Laws 2002, LB 1105, § 447; Laws 2010, LB650, § 32; Laws 2011, LB289, § 26; Laws 2012, LB898, § 3; Laws 2012, LB1155, § 15; Laws 2015, LB95, § 9; Laws 2016, LB929, § 9; Laws 2017, LB263, § 70; Laws 2018, LB909, § 92.
Effective date April 12, 2018.

(b) ADMINISTRATION

60-506.01 Report of accident; effect.

If the Department of Motor Vehicles receives Part II of a report of an accident from the Department of Transportation pursuant to section 60-699, it shall be presumed for purposes of the Motor Vehicle Safety Responsibility Act that the Part II information is true, and such presumption shall be accepted, when applicable, as satisfying the requirements of sections 60-507, 60-508, and 60-509.

Source: Laws 1961, c. 319, § 6, p. 1021; Laws 1993, LB 575, § 44; Laws 2017, LB263, § 71.

(c) SECURITY FOLLOWING ACCIDENT

60-507 Accident; damage in excess of one thousand dollars; suspend license; suspend privilege of operation by nonresident; notice; exception; proof of financial responsibility; failure to furnish information; effect.

(1) Within ninety days after the receipt by the Department of Transportation of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person, including such operator, to an apparent extent in excess of one thousand dollars, the Department of Motor Vehicles shall suspend (a) the license of each operator of a motor vehicle in any manner involved in such accident and (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state, unless such operator deposits security in a sum which shall be sufficient, in the judgment of the Department of Motor Vehicles, to satisfy any judgment or judgments for damages resulting from such accident which may be recovered against such operator and unless such operator gives proof of financial responsibility.

Notice of such suspension shall be sent by the Department of Motor Vehicles by regular United States mail to such operator not less than twenty days prior to the effective date of such suspension at his or her last-known mailing address as shown by the records of the department and shall state the amount required as security and the requirement of proof of financial responsibility. In the event a person involved in a motor vehicle accident within this state fails to make a report to the Department of Motor Vehicles indicating the extent of his or her injuries or the damage to his or her property within thirty days after the accident, and the department does not have sufficient information on which to base an evaluation of such injury or damage, the department, after reasonable notice to such person, may not require any deposit of security for the benefit or protection of such person. If the operator fails to respond to the notice on or before twenty days after the date of the notice, the director shall summarily suspend the operator's license or privilege and issue an order of suspension.

(2) The order of suspension provided for in subsection (1) of this section shall not be entered by the Department of Motor Vehicles if the department determines that in its judgment there is no reasonable possibility of a judgment being rendered against such operator.

(3) In determining whether there is a reasonable possibility of judgment being rendered against such operator, the department shall consider all reports and information filed in connection with the accident.

(4) The order of suspension provided for in subsection (1) of this section shall advise the operator that he or she has a right to appeal the order of suspension in accordance with the provisions set forth in section 60-503.

(5) The order of suspension provided for in subsection (1) of this section shall be sent by regular United States mail to the person's last-known mailing address as shown by the records of the department.

Source: Laws 1949, c. 178, § 7, p. 486; Laws 1953, c. 215, § 3, p. 763; Laws 1957, c. 366, § 45, p. 1278; Laws 1959, c. 298, § 5, p. 1111; Laws 1961, c. 319, § 7, p. 1022; Laws 1967, c. 392, § 1, p. 1218; Laws 1972, LB 1303, § 2; Laws 1973, LB 417, § 4; Laws 1985, LB 94, § 6; Laws 1997, LB 10, § 2; Laws 2003, LB 185, § 1; Laws 2012, LB751, § 42; Laws 2017, LB339, § 181.

(d) PROOF OF FINANCIAL RESPONSIBILITY

60-520 Judgments; payments sufficient to satisfy requirements.

Judgments in excess of the amounts specified in subdivision (13) of section 60-501 shall, for the purpose of the Motor Vehicle Safety Responsibility Act only, be deemed satisfied when payments in the amounts so specified have been credited thereon. Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amounts so specified.

Source: Laws 1949, c. 178, § 20, p. 492; Laws 2010, LB650, § 33; Laws 2011, LB289, § 27; Laws 2012, LB1155, § 16.

60-547 Bond; proof of financial responsibility.

Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this state, or a bond with

at least two individual sureties who each own real estate within this state, which real estate shall be scheduled in the bond approved by a judge of a court of record. The bond shall be conditioned for the payment of the amounts specified in subdivision (13) of section 60-501. It shall be filed with the department and shall not be cancelable except after ten days' written notice to the department. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the department in the office of the register of deeds of the county where such real estate shall be located.

Source: Laws 1949, c. 178, § 47, p. 498; Laws 2010, LB650, § 34; Laws 2011, LB289, § 28; Laws 2012, LB1155, § 17.

ARTICLE 6

NEBRASKA RULES OF THE ROAD

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(a) GENERAL PROVISIONS

60-601 Rules, how cited.

Sections 60-601 to 60-6,383 shall be known and may be cited as the Nebraska Rules of the Road.

Source: Laws 1973, LB 45, § 122; Laws 1989, LB 285, § 9; Laws 1992, LB 291, § 14; Laws 1992, LB 872, § 5; R.S.Supp., 1992, § 39-6,122; Laws 1993, LB 370, § 97; Laws 1993, LB 564, § 14; Laws 1996, LB 901, § 3; Laws 1996, LB 1104, § 2; Laws 1997, LB 91, § 1; Laws 1998, LB 309, § 12; Laws 1999, LB 585, § 3; Laws 2001, LB 38, § 42; Laws 2002, LB 1105, § 448; Laws 2002, LB 1303, § 10; Laws 2004, LB 208, § 8; Laws 2006, LB 853, § 14; Laws 2006, LB 925, § 4; Laws 2008, LB736, § 6; Laws 2008, LB756, § 18; Laws 2009, LB92, § 1; Laws 2010, LB650, § 35; Laws 2010, LB945, § 2; Laws 2011, LB164, § 1; Laws 2011, LB289, § 29; Laws 2011, LB667, § 32; Laws 2011, LB675, § 4; Laws 2012, LB751, § 43; Laws 2012, LB1155, § 18; Laws

2014, LB1039, § 1; Laws 2015, LB231, § 27; Laws 2015, LB641, § 1; Laws 2016, LB977, § 20; Laws 2018, LB909, § 93; Laws 2018, LB1009, § 3.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB909, section 93, with LB1009, section 3, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB1009 became effective July 19, 2018.

60-605 Definitions, where found.

For purposes of the Nebraska Rules of the Road, the definitions found in sections 60-606 to 60-676 shall be used.

Source: Laws 1993, LB 370, § 101; Laws 1996, LB 901, § 4; Laws 1997, LB 91, § 2; Laws 2001, LB 38, § 43; Laws 2006, LB 853, § 15; Laws 2006, LB 925, § 5; Laws 2008, LB756, § 19; Laws 2010, LB650, § 36; Laws 2011, LB289, § 30; Laws 2012, LB1155, § 19; Laws 2015, LB231, § 28; Laws 2018, LB1009, § 4.
Effective date July 19, 2018.

60-610.01 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 29; Laws 2018, LB909, § 94.
Effective date April 12, 2018.

60-611 Bicycle, defined.

Bicycle shall mean (1) every device propelled solely by human power, upon which any person may ride, and having two tandem wheels either of which is more than fourteen inches in diameter or (2) a device with two or three wheels, fully operative pedals for propulsion by human power, and an electric motor with a capacity not exceeding seven hundred fifty watts which produces no more than one brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than twenty miles per hour on level ground.

Source: Laws 1993, LB 370, § 107; Laws 2015, LB95, § 10.

60-622.01 Golf car vehicle, defined.

Golf car vehicle means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, is designed and manufactured for operation on a golf course for sporting and recreational purposes, and is not being operated within the boundaries of a golf course.

Source: Laws 2012, LB1155, § 20.

60-628.01 Low-speed vehicle, defined.

Low-speed vehicle means a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, (c) which is equipped with a windshield and an occupant protection system, and (d) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2018. A motorcycle with a sidecar attached is not a low-speed vehicle.

Source: Laws 2011, LB289, § 31; Laws 2016, LB929, § 10; Laws 2017, LB263, § 72; Laws 2018, LB909, § 95.
Effective date April 12, 2018.

60-631 Manual, defined.

Manual shall mean the Manual on Uniform Traffic Control Devices adopted by the Department of Transportation pursuant to section 60-6,118.

Source: Laws 1993, LB 370, § 127; Laws 2017, LB339, § 182.

60-636.01 Minitruck, defined.

Minitruck means a foreign-manufactured import vehicle or domestic-manufactured vehicle which (1) is powered by an internal combustion engine with a piston or rotor displacement of one thousand five hundred cubic centimeters or less, (2) is sixty-seven inches or less in width, (3) has a dry weight of four thousand two hundred pounds or less, (4) travels on four or more tires, (5) has a top speed of approximately fifty-five miles per hour, (6) is equipped with a bed or compartment for hauling, (7) has an enclosed passenger cab, (8) is equipped with headlights, taillights, turnsignals, windshield wipers, a rearview mirror, and an occupant protection system, and (9) has a four-speed, five-speed, or automatic transmission.

Source: Laws 2010, LB650, § 37; Laws 2012, LB898, § 4.

60-637 Moped, defined.

Moped shall mean a device 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 device at a maximum design speed of no more than thirty miles per hour on level ground.

Source: Laws 1993, LB 370, § 133; Laws 2015, LB95, § 11.

60-638 Motor vehicle, defined.

Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices.

Source: Laws 1993, LB 370, § 134; Laws 2002, LB 1105, § 451; Laws 2015, LB95, § 12.

60-639 Motorcycle, defined.

Motorcycle means 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, excluding tractors and electric personal assistive mobility devices. Motorcycle includes an autocycle.

Source: Laws 1993, LB 370, § 135; Laws 2002, LB 1105, § 452; Laws 2015, LB231, § 30; Laws 2018, LB909, § 96.
Effective date April 12, 2018.

60-640 Motor-driven cycle, defined.

(1) Motor-driven cycle means 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 except for a bicycle as described in subdivision (2) of section 60-611. Motor-driven cycle shall not include an electric personal assistive mobility device.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1993, LB 370, § 136; Laws 2002, LB 1105, § 453; Laws 2015, LB95, § 13; Laws 2018, LB909, § 97.
Effective date April 12, 2018.

60-658 School bus, defined.

School bus shall mean any motor vehicle which complies with the general design, equipment, and color requirements adopted and promulgated pursuant to subdivision (12) of section 79-318 and which is used to transport students to or from school or in connection with school activities but shall not include buses operated by common carriers in urban transportation of school students.

Source: Laws 1993, LB 370, § 154; Laws 1993, LB 575, § 5; Laws 2009, LB549, § 3; Laws 2013, LB222, § 20.

60-658.01 School crossing zone, defined.

School crossing zone means the area of a roadway designated to the public by the Department of Transportation or any county, city, or village as a school crossing zone through the use of a sign or traffic control device as specified by the department or any county, city, or village in conformity with the manual but does not include any area of a freeway. A school crossing zone starts at the location of the first sign or traffic control device identifying the school crossing zone and continues until a sign or traffic control device indicates that the school crossing zone has ended.

Source: Laws 1997, LB 91, § 3; Laws 2017, LB339, § 183.

60-667.01 Super-two highway, defined.

Super-two highway means a two-lane highway designed primarily for through traffic with passing lanes spaced intermittently and on alternating sides of the highway to provide predictable opportunities to pass slower moving vehicles.

Source: Laws 2018, LB1009, § 5.
Effective date July 19, 2018.

(b) POWERS OF STATE AND LOCAL AUTHORITIES

60-680 Regulation of highways by local authority; police powers.

(1) Any local authority with respect to highways under its jurisdiction and within the reasonable exercise of the police power may:

- (a) Regulate or prohibit stopping, standing, or parking;
- (b) Regulate traffic by means of peace officers or traffic control devices;
- (c) Regulate or prohibit processions or assemblages on the highways;
- (d) Designate highways or roadways for use by traffic moving in one direction;
- (e) Establish speed limits for vehicles in public parks;
- (f) Designate any highway as a through highway or designate any intersection as a stop or yield intersection;
- (g) Restrict the use of highways as authorized in section 60-681;
- (h) Regulate operation of bicycles and require registration and inspection of such, including requirement of a registration fee;
- (i) Regulate operation of electric personal assistive mobility devices;
- (j) Regulate or prohibit the turning of vehicles or specified types of vehicles;
- (k) Alter or establish speed limits authorized in the Nebraska Rules of the Road;
- (l) Designate no-passing zones;
- (m) Prohibit or regulate use of controlled-access highways by any class or kind of traffic except those highways which are a part of the state highway system;
- (n) Prohibit or regulate use of heavily traveled highways by any class or kind of traffic it finds to be incompatible with the normal and safe movement of traffic, except that such regulations shall not be effective on any highway which is part of the state highway system unless authorized by the Department of Transportation;
- (o) Establish minimum speed limits as authorized in the rules;
- (p) Designate hazardous railroad grade crossings as authorized in the rules;
- (q) Designate and regulate traffic on play streets;
- (r) Prohibit pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk as authorized in the rules;
- (s) Restrict pedestrian crossings at unmarked crosswalks as authorized in the rules;
- (t) Regulate persons propelling push carts;
- (u) Regulate persons upon skates, coasters, sleds, and other toy vehicles;
- (v) Notwithstanding any other provision of law, adopt and enforce an ordinance or resolution prohibiting the use of engine brakes on the National System of Interstate and Defense Highways that has a grade of less than five degrees within its jurisdiction. For purposes of this subdivision, engine brake means a device that converts a power producing engine into a power-absorbing air compressor, resulting in a net energy loss;
- (w) Adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions; and

(x) Adopt other traffic regulations except as prohibited by state law or contrary to state law.

(2) No local authority, except an incorporated city with more than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, shall erect or maintain any traffic control device at any location so as to require the traffic on any state highway or state-maintained freeway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.

(3) No ordinance or regulation enacted under subdivision (1)(d), (e), (f), (g), (j), (k), (l), (m), (n), (p), (q), or (s) of this section shall be effective until traffic control devices giving notice of such local traffic regulations are erected upon or at the entrances to such affected highway or part thereof affected as may be most appropriate.

Source: Laws 1973, LB 45, § 97; R.S.1943, (1988), § 39-697; Laws 1993, LB 370, § 176; Laws 2000, LB 1361, § 2; Laws 2002, LB 491, § 2; Laws 2002, LB 1105, § 455; Laws 2017, LB113, § 48; Laws 2017, LB339, § 184.

60-681 Highways, travel on; regulation by local authorities; when authorized; signs.

Local authorities may by ordinance or resolution prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles, for a total period not to exceed one hundred eighty days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which such local authorities are responsible whenever any such highway by reason of deterioration, rain, snow, or other climatic condition will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weight thereof reduced. Such local authorities enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until such signs are erected and maintained.

Local authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

Source: Laws 1931, c. 110, § 35, p. 316; C.S.Supp.,1941, § 39-1166; R.S.1943, § 39-770; R.S.1943, (1988), § 39-6,189; Laws 1993, LB 370, § 177; Laws 2016, LB977, § 21.

(c) PENALTY AND ENFORCEMENT PROVISIONS

60-692 Failure to satisfy judgment; effect.

When any person fails within thirty working days to satisfy any judgment imposed for any traffic infraction, it shall be the duty of the clerk of the court in

which such judgment is rendered within this state to transmit a copy of such judgment to the Department of Motor Vehicles as provided in section 60-4,100.

Source: Laws 1973, LB 45, § 110; Laws 1991, LB 420, § 6; R.S.Supp.,1992, § 39-6,110; Laws 1993, LB 370, § 188; Laws 2017, LB259, § 14.
Operative date July 1, 2019.

(d) ACCIDENTS AND ACCIDENT REPORTING

60-695 Peace officers; investigation of traffic accident; duty to report; Department of Transportation; powers; duties.

It shall be the duty of any peace officer who investigates any traffic accident in the performance of his or her official duties in all instances of an accident resulting in injury or death to any person or in which estimated damage exceeds one thousand dollars to the property of any one person to submit an original report of such investigation to the Accident Records Bureau of the Department of Transportation within ten days after each such accident. The department shall have authority to collect accident information it deems necessary and shall prescribe and furnish appropriate forms for reporting.

Source: Laws 1973, LB 45, § 104; Laws 1985, LB 94, § 1; Laws 1988, LB 1030, § 41; R.S.1943, (1988), § 39-6,104; Laws 1993, LB 370, § 191; Laws 2003, LB 185, § 3; Laws 2017, LB339, § 185.

60-697 Accident; driver's duty; penalty.

(1) The driver of any vehicle involved in an accident upon either a public highway, private road, or private drive, resulting in injury or death to any person, shall (a) immediately stop such vehicle at the scene of such accident and ascertain the identity of all persons involved, (b) give his or her name and address and the license number of the vehicle and exhibit his or her operator's license to the person struck or the occupants of any vehicle collided with, and (c) render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

(2) Any person violating any of the provisions of this section shall upon conviction thereof be punished as provided in section 60-698.

Source: Laws 1931, c. 110, § 28, p. 314; C.S.Supp.,1941, § 39-1159; R.S.1943, § 39-762; Laws 1947, c. 148, § 2(1), p. 409; Laws 1949, c. 119, § 1, p. 315; Laws 1949, c. 120, § 1, p. 317; R.R.S.1943, § 39-762; R.S.1943, (1988), § 39-6,104.01; Laws 1993, LB 370, § 193; Laws 2005, LB 274, § 240; Laws 2006, LB 925, § 8; Laws 2011, LB675, § 5.

Cross References

Operator's license, assessment of points, revocation, see sections 60-497.01, 60-498, and 60-4,182 et seq.

60-698 Accident; failure to stop; penalty.

(1) Any person convicted of violating section 60-697 relative to the duty to stop in the event of certain accidents shall be guilty of (a) a Class IIIA felony if the accident resulted in an injury to any person other than a serious bodily

injury as defined in section 60-6,198 or death or (b) a Class III felony if the accident resulted in the death of any person or serious bodily injury as defined in section 60-6,198.

(2) The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of not less than one year nor more than fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

Source: Laws 1931, c. 110, § 56, p. 324; C.S.Supp.,1941, § 39-1187; R.S.1943, § 39-763; Laws 1953, c. 214, § 2, p. 757; R.R.S.1943, § 39-763; Laws 1978, LB 748, § 27; R.S.1943, (1988), § 39-6,104.03; Laws 1993, LB 31, § 18; Laws 1993, LB 370, § 194; Laws 1997, LB 772, § 6; Laws 2006, LB 925, § 9; Laws 2011, LB675, § 6.

60-699 Accidents; reports required of operators and owners; when; supplemental reports; reports of peace officers open to public inspection; limitation on use as evidence; violation; penalty.

(1) The operator of any vehicle involved in an accident resulting in injuries or death to any person or damage to the property of any one person, including such operator, to an apparent extent of more than one thousand dollars shall within ten days forward a report of such accident to the Department of Transportation. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within ten days from the time he or she learns of the accident, report the matter in writing to the Department of Transportation. The Department of Transportation or Department of Motor Vehicles may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it whenever the original report is insufficient in the opinion of either department. The operator or the owner of the motor vehicle shall make such other and additional reports relating to the accident as either department requires. Such records shall be retained for the period of time specified by the State Records Administrator pursuant to the Records Management Act.

(2) The report of accident required by this section shall be in two parts. Part I shall be in such form as the Department of Transportation may prescribe and shall disclose full information concerning the accident. Part II shall be in such form as the Department of Motor Vehicles may prescribe and shall disclose sufficient information to disclose whether or not the financial responsibility requirements of the Motor Vehicle Safety Responsibility Act are met through the carrying of liability insurance.

(3) Upon receipt of a report of accident, the Department of Transportation shall determine the reportability and classification of the accident and enter all information into a computerized data base. Upon completion, the Department of Transportation shall electronically send Part II of the report to the Department of Motor Vehicles for purposes of section 60-506.01.

(4) Such reports shall be without prejudice. All reports made by peace officers, made to or filed with peace officers in their respective offices or departments, or filed with or made by or to any other law enforcement agency

of the state shall be open to public inspection, but accident reports filed by the operator or owner of a motor vehicle pursuant to this section shall not be open to public inspection. The fact that a report by an operator or owner has been so made shall be admissible in evidence solely to prove compliance with this section, but no such report or any part of or statement contained in the report shall be admissible in evidence for any other purpose in any trial, civil or criminal, arising out of such accidents nor shall the report be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(5) The failure by any person to report an accident as provided in this section or to correctly give the information required in connection with the report shall be a Class V misdemeanor.

Source: Laws 1931, c. 110, § 29, p. 315; C.S.Supp.,1941, § 39-1160; R.S.1943, § 39-764; Laws 1951, c. 120, § 1, p. 531; Laws 1953, c. 215, § 1, p. 761; Laws 1961, c. 189, § 2, p. 580; Laws 1961, c. 319, § 1, p. 1019; Laws 1973, LB 417, § 1; R.S.Supp.,1973, § 39-764; Laws 1985, LB 94, § 2; R.S.1943, (1988), § 39-6,104.04; Laws 1993, LB 370, § 195; Laws 1993, LB 575, § 24; Laws 2003, LB 185, § 4; Laws 2017, LB263, § 73; Laws 2017, LB339, § 186.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.

Records Management Act, see section 84-1220.

60-6,101 Accidents; coroner; report to Department of Transportation.

Any coroner or other official performing the duties of coroner shall report in writing to the Department of Transportation the death of any person within his or her jurisdiction as the result of an accident involving a motor vehicle and the circumstances of such accident. Such report by the coroner shall be made within ten days after such death.

Source: Laws 1974, LB 66, § 1; R.S.1943, (1988), § 39-6,104.06; Laws 1993, LB 370, § 197; Laws 1993, LB 590, § 1; Laws 2017, LB339, § 187.

60-6,102 Accident; death; driver; pedestrian sixteen years or older; coroner; examine body; amount of alcohol or drugs; report to Department of Transportation; public information.

In the case of a driver who dies within four hours after being in a motor vehicle accident, including a motor vehicle accident in which one or more persons in addition to such driver is killed, and of a pedestrian sixteen years of age or older who dies within four hours after being struck by a motor vehicle, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. Such information shall be included in each report submitted pursuant to sections 60-6,101 to 60-6,104 and shall be tabulated on a monthly basis by the Department of Transportation. Such information, including the identity of the deceased and

any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the department.

Source: Laws 1974, LB 66, § 2; R.S.1943, (1988), § 39-6,104.07; Laws 1993, LB 370, § 198; Laws 1993, LB 590, § 2; Laws 2017, LB339, § 188.

60-6,103 Accident; driver or pedestrian sixteen years of age or older; person killed; submit to chemical test; results in writing to Director-State Engineer; public information.

Any surviving driver or pedestrian sixteen years of age or older who is involved in a motor vehicle accident in which a person is killed shall be requested, if he or she has not otherwise been directed by a peace officer to submit to a chemical test under section 60-6,197, to submit to a chemical test of blood, urine, or breath as the peace officer directs for the purpose of determining the amount of alcohol or drugs in his or her body fluid. The results of such test shall be reported in writing to the Director-State Engineer who shall tabulate such results on a monthly basis. Such information, including the identity of such driver or pedestrian and any such amount of alcohol or drugs, shall be public information and may be released or disclosed as provided in rules and regulations of the Department of Transportation. The provisions of sections 60-6,199, 60-6,200, and 60-6,202 shall, when applicable, apply to the tests provided for in this section.

Source: Laws 1974, LB 66, § 3; R.S.1943, (1988), § 39-6,104.08; Laws 1993, LB 370, § 199; Laws 1993, LB 590, § 3; Laws 2017, LB339, § 189.

60-6,106 Accidents; reports; expenses; reimbursement to county by Department of Transportation.

The Department of Transportation shall reimburse any county for expenses and costs incurred by the county pursuant to sections 60-6,101 to 60-6,105. The department shall provide the official in each county with the appropriate reporting form.

Source: Laws 1974, LB 66, § 6; R.S.1943, (1988), § 39-6,104.11; Laws 1993, LB 370, § 202; Laws 1993, LB 590, § 4; Laws 2017, LB339, § 190.

60-6,107 Accidents; Department of Health and Human Services; Department of Transportation; adopt rules and regulations.

(1) Except as provided in subsection (2) of this section, the Department of Health and Human Services shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Transportation shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Source: Laws 1974, LB 66, § 7; R.S.1943, (1988), § 39-6,104.12; Laws 1993, LB 370, § 203; Laws 1993, LB 590, § 5; Laws 1996, LB 1044, § 283; Laws 2007, LB296, § 233; Laws 2017, LB339, § 191.

(e) APPLICABILITY OF TRAFFIC LAWS

60-6,109 Drivers to exercise due care with pedestrian; audible signal.

Notwithstanding the other provisions of the Nebraska Rules of the Road, every driver of a vehicle shall exercise due care, which shall include, but not be limited to, leaving a safe distance of no less than three feet clearance, when applicable, to avoid colliding with any pedestrian upon any roadway and shall give an audible signal when necessary and shall exercise proper precaution upon observing any child or obviously confused or incapacitated person upon a roadway.

Source: Laws 1973, LB 45, § 44; R.S.1943, (1988), § 39-644; Laws 1993, LB 370, § 205; Laws 2012, LB1030, § 1.

60-6,115 Closed road; travel permitted; when.

Notwithstanding the provisions of subsection (1) of section 60-6,119, when the Department of Transportation, any local authority, or its authorized representative or permittee has closed, in whole or in part, by barricade or otherwise, during repair or construction, any portion of any highway, the restrictions upon the use of such highway shall not apply to persons living along such closed highway or to persons who would need to travel such highway during the normal course of their operations if no other route of travel is available to such person, but extreme care shall be exercised by such persons on such highway.

Source: Laws 1993, LB 370, § 211; Laws 2017, LB339, § 192.

(f) TRAFFIC CONTROL DEVICES

60-6,118 Manual on Uniform Traffic Control Devices; adoption by Department of Transportation.

Consistent with the provisions of the Nebraska Rules of the Road, the Department of Transportation may adopt and promulgate rules and regulations adopting and implementing a manual providing a uniform system of traffic control devices on all highways within this state which, together with any supplements adopted by the department, shall be known as the Manual on Uniform Traffic Control Devices.

Source: Laws 1973, LB 45, § 98; Laws 1984, LB 677, § 1; R.S.1943, (1988), § 39-698; Laws 1993, LB 370, § 214; Laws 2017, LB339, § 193.

60-6,120 Placing and maintaining traffic control devices; jurisdiction.

(1) The Department of Transportation shall place and maintain, or provide for such placing and maintaining, such traffic control devices, conforming to the manual, upon all state highways as it deems necessary to indicate and to carry out the Nebraska Rules of the Road or to regulate, warn, or guide traffic.

(2)(a) In incorporated cities and villages with less than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the department shall have exclusive jurisdiction regarding the erection and maintenance of traffic control devices on the state highway system but shall not place traffic control devices on the state highway system within incorporated

cities of more than twenty-five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census without consultation with the proper city officials.

(b) In incorporated cities of forty thousand or more inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, except on state-maintained freeways of the state highway system where the department retains exclusive jurisdiction, the city shall have jurisdiction regarding erection and maintenance of traffic control devices on the state highway system after consultation with the department, except that there shall be joint jurisdiction with the department for such traffic control devices for which the department accepts responsibility for the erection and maintenance.

(3) No local authority shall place or maintain any traffic control device upon any highway under the jurisdiction of the department, except by permission of the department, or on any state-maintained freeway of the state highway system.

(4) The placing of traffic control devices by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regulations, or orders but shall be considered as establishing precepts extending the provisions of the Nebraska Rules of the Road as necessary to regulate, warn, or guide traffic. Violation of such traffic control devices shall be punishable as provided in the rules.

Source: Laws 1973, LB 45, § 10; R.S.1943, (1988), § 39-610; Laws 1993, LB 370, § 216; Laws 2017, LB113, § 49; Laws 2017, LB339, § 194.

60-6,126.01 Road name signs; authorized.

Local authorities may place and maintain road name signs on the same sign posts as signs under the jurisdiction of the Department of Transportation when highway visibility would not be impaired. Local authorities may also place and maintain road name signs in the right-of-way of any highway under the jurisdiction of the Department of Transportation when highway visibility would not be impaired.

Source: Laws 2006, LB 853, § 17; Laws 2017, LB339, § 195.

60-6,129 Interference with official traffic control devices or railroad signs or signals; prohibited; liability in civil action.

(1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.

(2) Any person who moves, alters, damages, or destroys warning devices placed upon roads which the Department of Transportation or any local authority or its representative has closed in whole or in part for the protection of the public or for the protection of the highway from damage during construction, improvement, or maintenance operation and thereby causes injury or death to any person or damage to any property, equipment, or material thereon shall be liable, subject to sections 25-21,185 and 25-21,185.07 to 25-21,185.12, for the full or allocated amount of such death, injury, or damage,

and such amount may be recovered by the injured or damaged party or his or her legal representative in a civil action brought in any court of competent jurisdiction.

Source: Laws 1973, LB 45, § 19; Laws 1992, LB 262, § 10; R.S.Supp.,1992, § 39-619; Laws 1993, LB 370, § 225; Laws 2017, LB339, § 196.

60-6,130 Signs, markers, devices, or notices; prohibited acts; penalty.

(1) Any person who willfully or maliciously shoots upon the public highway and injures, defaces, damages, or destroys any signs, monuments, road markers, traffic control devices, traffic surveillance devices, or other public notices lawfully placed upon such highways shall be guilty of a Class III misdemeanor.

(2) No person shall willfully or maliciously injure, deface, alter, or knock down any sign, traffic control device, or traffic surveillance device.

(3) It shall be unlawful for any person, other than a duly authorized representative of the Department of Transportation, a county, or a municipality, to remove any sign, traffic control device, or traffic surveillance device placed along a highway for traffic control, warning, or informational purposes by official action of the department, county, or municipality. It shall be unlawful for any person to possess a sign or device which has been removed in violation of this subsection.

(4) Any person violating subsection (2) or (3) of this section shall be guilty of a Class II misdemeanor and shall be assessed liquidated damages in the amount of the value of the sign, traffic control device, or traffic surveillance device and the cost of replacing it.

Source: G.S.1873, c. 58, § 100, p. 743; R.S.1913, § 3040; Laws 1915, c. 60, § 1, p. 154; C.S.1922, § 2791; C.S.1929, § 39-1026; R.S.1943, § 39-714; Laws 1971, LB 331, § 1; C.S.Supp.,1972, § 39-714; Laws 1977, LB 41, § 9; Laws 1989, LB 283, § 1; R.S.Supp.,1992, § 39-619.01; Laws 1993, LB 370, § 226; Laws 2017, LB339, § 197.

(g) USE OF ROADWAY AND PASSING

60-6,133 Overtaking and passing rules; vehicles proceeding in same direction.

Except when overtaking and passing on the right is permitted, the following rules shall govern the overtaking and passing of vehicles proceeding in the same direction:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall first give a visible signal of his or her intention and shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;

(2) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle; and

(3) The driver of a vehicle overtaking a bicycle or electric personal assistive mobility device proceeding in the same direction shall exercise due care, which shall include, but not be limited to, leaving a safe distance of no less than three

feet clearance, when applicable, when passing a bicycle or electric personal assistive mobility device and shall maintain such clearance until safely past the overtaken bicycle or electric personal assistive mobility device.

Source: Laws 1973, LB 45, § 22; R.S.1943, (1988), § 39-622; Laws 1993, LB 370, § 229; Laws 1993, LB 575, § 6; Laws 2000, LB 1361, § 3; Laws 2012, LB1030, § 2.

60-6,137 No-passing zones; exception.

(1) The Department of Transportation and local authorities may determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey such indications.

(2) Where signs or markings are in place to define a no-passing zone, no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(3) This section shall not apply (a) under the conditions described in subdivision (1)(b) of section 60-6,131 or (b) to the driver of a vehicle turning left into or from an alley, private road, or driveway unless otherwise prohibited by signs.

Source: Laws 1973, LB 45, § 26; R.S.1943, (1988), § 39-626; Laws 1993, LB 370, § 233; Laws 2017, LB339, § 198.

60-6,138 One-way roadways and rotary traffic islands; jurisdiction; exception for emergency vehicles.

(1) The Department of Transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all times or at such times as shall be indicated by traffic control devices.

(2) Except for emergency vehicles, no vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is opposite to the direction designated by competent authority on any deceleration lane, acceleration lane, access ramp, shoulder, or roadway.

(3) A vehicle which passes around a rotary traffic island shall be driven only to the right of such island.

Source: Laws 1973, LB 45, § 27; R.S.1943, (1988), § 39-627; Laws 1993, LB 370, § 234; Laws 2017, LB339, § 199.

60-6,139 Driving on roadways laned for traffic; rules; traffic control devices.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply:

(1) A vehicle shall be driven as nearly as practicable within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except (a) when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, (b) in preparation for making a left turn, or (c) when such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by traffic control devices;

(3) Traffic control devices may be erected by the Department of Transportation or local authorities to direct specified traffic to use a designated lane or to designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device; and

(4) Traffic control devices may be installed by the department or local authorities to prohibit the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

Source: Laws 1973, LB 45, § 28; R.S.1943, (1988), § 39-628; Laws 1993, LB 370, § 235; Laws 2017, LB339, § 200.

60-6,144 Restrictions on use of controlled-access highway.

Use of a freeway and entry thereon by the following shall be prohibited at all times except by permit from the Department of Transportation or from the local authority in the case of freeways not under the jurisdiction of the department:

- (1) Pedestrians except in areas specifically designated for that purpose;
- (2) Hitchhikers or walkers;
- (3) Vehicles not self-propelled;
- (4) Bicycles, motor-driven cycles, motor scooters not having motors of more than ten horsepower, and electric personal assistive mobility devices;
- (5) Animals led, driven on the hoof, ridden, or drawing a vehicle;
- (6) Funeral processions;
- (7) Parades or demonstrations;
- (8) Vehicles, except emergency vehicles, unable to maintain minimum speed as provided in the Nebraska Rules of the Road;
- (9) Construction equipment;
- (10) Implements of husbandry, whether self-propelled or towed, except as provided in section 60-6,383;
- (11) Vehicles with improperly secured attachments or loads;
- (12) Vehicles in tow, when the connection consists of a chain, rope, or cable, except disabled vehicles which shall be removed from such freeway at the nearest interchange;
- (13) Vehicles with deflated pneumatic, metal, or solid tires or continuous metal treads except maintenance vehicles;
- (14) Any person standing on or near a roadway for the purpose of soliciting or selling to an occupant of any vehicle; or

(15) Overdimensional vehicles.

Source: Laws 1973, LB 45, § 33; R.S.1943, (1988), § 39-633; Laws 1993, LB 370, § 240; Laws 1993, LB 575, § 8; Laws 2002, LB 1105, § 457; Laws 2006, LB 853, § 18; Laws 2016, LB977, § 23; Laws 2017, LB339, § 201.

60-6,145 Official signs on controlled-access highway.

The Department of Transportation and local authorities shall erect and maintain at appropriate locations official signs on freeways under their respective jurisdictions apprising motorists of the restrictions placed upon the use of such highways by the Nebraska Rules of the Road. When the department or local authority posts such signs, it need not follow the usual rules and procedure of posting signs on or near freeways nor shall the department be required to conform with the formalities of public hearings. When such signs are erected, no person shall violate the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 34; R.S.1943, (1988), § 39-634; Laws 1993, LB 370, § 241; Laws 2017, LB339, § 202.

(i) PEDESTRIANS

60-6,152.01 Person operating wheelchair; rights and duties applicable to pedestrian.

Any disabled person operating a manual or motorized wheelchair on a sidewalk or across a roadway or shoulder in a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Source: Laws 2015, LB641, § 2.

60-6,153 Pedestrians' right-of-way in crosswalk; traffic control devices.

(1) Except at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided, when traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within a crosswalk who is in the lane in which the driver is proceeding or is in the lane immediately adjacent thereto by bringing his or her vehicle to a complete stop.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) At or adjacent to the intersection of two highways at which a path designated for bicycles and pedestrians is controlled by a traffic control signal, a pedestrian who lawfully enters a highway where the path crosses the highway shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) The Department of Transportation and local authorities in their respective jurisdictions may, after an engineering and traffic investigation, designate unmarked crosswalk locations where pedestrian crossing is prohibited or

where pedestrians shall yield the right-of-way to vehicles. Such restrictions shall be effective only when traffic control devices indicating such restrictions are in place.

Source: Laws 1973, LB 45, § 42; Laws 1979, LB 395, § 1; R.S.1943, (1988), § 39-642; Laws 1993, LB 370, § 249; Laws 2016, LB716, § 1; Laws 2017, LB339, § 203.

Cross References

Failure to yield to pedestrian, assessment of points against operator's license, see section 60-4,182 et seq.

60-6,154 Crossing at other than crosswalks; yield right-of-way.

(1) Every pedestrian who crosses a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon the roadway.

(2) Any pedestrian who crosses a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(3) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(4) Where a path designated for bicycles and pedestrians crosses a highway, a pedestrian who is in the crossing in accordance with the traffic control device shall have the right-of-way within the crossing with respect to vehicles and bicycles.

(5) No pedestrian shall cross a roadway intersection diagonally unless authorized by traffic control devices, and when authorized to cross diagonally, pedestrians shall cross only in accordance with the traffic control devices pertaining to such crossing movements.

(6) Local authorities and the Department of Transportation, by erecting appropriate official traffic control devices, may, within their respective jurisdictions, prohibit pedestrians from crossing any roadway in a business district or any designated highway except in a crosswalk.

Source: Laws 1973, LB 45, § 43; R.S.1943, (1988), § 39-643; Laws 1993, LB 370, § 250; Laws 2016, LB716, § 2; Laws 2017, LB339, § 204.

(j) TURNING AND SIGNALS

60-6,159 Required position and method of turning; right-hand and left-hand turns; traffic control devices.

(1) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the extreme left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) The Department of Transportation and local authorities in their respective jurisdictions may cause traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.

Source: Laws 1973, LB 45, § 50; R.S.1943, (1988), § 39-650; Laws 1993, LB 370, § 255; Laws 2017, LB339, § 205.

(k) STOPPING, STANDING, PARKING, AND BACKING UP

60-6,164 Stopping, parking, or standing upon a roadway, freeway, or bridge; limitations; duties of driver.

(1) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed twenty-four hours.

(2) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed twelve hours.

(3) No person, except law enforcement, fire department, emergency management, public or private ambulance, or authorized Department of Transportation or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(4) Whenever a vehicle is disabled or inoperable in a roadway or for any reason obstructs the regular flow of traffic for reasons other than an accident, the driver shall move or cause the vehicle to be moved as soon as practical so as to not obstruct the regular flow of traffic.

(5) This section does not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position until such time as it can be removed pursuant to subsection (4) of this section.

Source: Laws 1973, LB 45, § 70; R.S.1943, (1988), § 39-670; Laws 1993, LB 370, § 260; Laws 1996, LB 43, § 11; Laws 2007, LB561, § 2; Laws 2017, LB339, § 206.

60-6,166 Stopping, standing, or parking prohibited; exceptions.

(1) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(a) Stop, stand, or park any vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone unless the Department of Transportation or the local authority indicates a different length by signs or markings;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(viii) On any railroad track; or

(ix) At any place where official signs prohibit stopping;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk at an intersection;

(iv) Within thirty feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;

(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of such entrance when properly signposted; or

(vi) At any place where official signs prohibit standing; or

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

Source: Laws 1973, LB 45, § 72; R.S.1943, (1988), § 39-672; Laws 1993, LB 370, § 262; Laws 2017, LB339, § 207.

60-6,167 Parking regulations; signs; control by Department of Transportation or local authority.

(1) Except as otherwise provided in this section, any vehicle stopped or parked upon a two-way roadway where parking is permitted shall be so stopped or parked with the right-hand wheels parallel to and within twelve

inches of the right-hand curb or edge of such roadway. No vehicle shall be parked upon a roadway when there is a shoulder adjacent to the roadway which is available for parking.

(2) Except when otherwise provided by a local authority, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of such roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway or its left-hand wheels within twelve inches of the left-hand curb or edge of such roadway.

(3) A local authority may permit angle or center parking on any roadway, except that angle or center parking shall not be permitted on any federal-aid highway or on any part of the state highway system unless the Director-State Engineer has determined that such roadway is of sufficient width to permit angle or center parking without interfering with the free movement of traffic.

(4) The Department of Transportation or a local authority may prohibit or restrict stopping, standing, or parking on highways under its respective jurisdiction outside the corporate limits of any city or village and erect and maintain proper and adequate signs thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

Source: Laws 1973, LB 45, § 73; R.S.1943, (1988), § 39-673; Laws 1993, LB 370, § 263; Laws 1993, LB 575, § 18; Laws 2017, LB339, § 208.

60-6,168 Unattended motor vehicles; conditions.

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on a highway without first: (1) Stopping the motor of such vehicle; (2) except for vehicles equipped with motor starters that may be actuated without a key, locking the ignition and removing the key from the ignition; (3) effectively setting the brakes thereon; and (4) when standing upon any roadway, turning the front wheels of such vehicle to the curb or side of such roadway.

Source: Laws 1973, LB 45, § 74; R.S.1943, (1988), § 39-674; Laws 1993, LB 370, § 264; Laws 2017, LB263, § 74.

(I) SPECIAL STOPS

60-6,171 Railroad crossing stop signs; jurisdiction.

The Department of Transportation and local authorities on highways under their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at the crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

Source: Laws 1973, LB 45, § 56; R.S.1943, (1988), § 39-656; Laws 1993, LB 370, § 267; Laws 2017, LB339, § 209.

60-6,175 School bus; safety requirements; use of stop signal arm; use of warning signal lights; violations; penalty.

(1) Upon meeting or overtaking, from the front or rear, any school bus on which the yellow warning signal lights are flashing, the driver of a motor

vehicle shall reduce the speed of such vehicle to not more than twenty-five miles per hour, shall bring such vehicle to a complete stop when the school bus is stopped, the stop signal arm is extended, and the flashing red signal lights are turned on, and shall remain stopped until the flashing red signal lights are turned off, the stop signal arm is retracted, and the school bus resumes motion. This section shall not apply to approaching traffic in the opposite direction on a divided highway or to approaching traffic when there is displayed a sign as provided in subsection (8) of this section directing traffic to proceed. Any person violating this subsection shall be guilty of a Class IV misdemeanor, shall be fined five hundred dollars, and shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182.

(2) Except as provided in subsection (8) of this section, the driver of any school bus, when stopping to receive or discharge pupils, shall turn on flashing yellow warning signal lights at a distance of not less than three hundred feet when inside the corporate limits of any city or village and not less than five hundred feet nor more than one thousand feet in any area outside the corporate limits of any city or village from the point where such pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils, the bus driver shall bring the school bus to a stop, extend a stop signal arm, and turn on the flashing red signal lights. After receiving or discharging pupils, the bus driver shall turn off the flashing red signal lights, retract the stop signal arm, and then proceed on the route.

(3)(a) Except as provided in subdivision (b) of this subsection, no school bus shall stop to load or unload pupils outside of the corporate limits of any city or village or on any part of the state highway system within the corporate limits of a city or village, unless there is at least four hundred feet of clear vision in each direction of travel.

(b) If four hundred feet of clear vision in each direction of travel is not possible as determined by the school district, a school bus may stop to load or unload pupils if there is proper signage installed indicating that a school bus stop is ahead.

(4) All pupils shall be received and discharged from the right front entrance of every school bus. If such pupils must cross a roadway, the bus driver shall instruct such pupils to cross in front of the school bus and the bus driver shall keep such school bus halted with the flashing red signal lights turned on and the stop signal arm extended until such pupils have reached the opposite side of such roadway.

(5) The driver of a vehicle upon a divided highway need not stop upon meeting or passing a school bus which is on a different roadway or when upon a freeway and such school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(6) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words school bus in letters not less than eight inches high.

(7) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or school-sponsored activities, all markings thereon indicating school bus shall be covered or concealed. The stop signal arm and system of flashing yellow warning signal lights and flashing red signal lights shall not be operable through the usual controls.

(8) When a school bus is (a) parked in a designated school bus loading area which is out of the flow of traffic and which is adjacent to a school site or (b) parked on a roadway which possesses more than one lane of traffic flowing in the same direction and which is adjacent to a school site, the bus driver shall engage only the hazard warning flasher lights when receiving or discharging pupils if a school bus loading area warning sign is displayed. Such signs shall not be directly attached to any school bus but shall be free standing and placed at the rear of a parked school bus or line of parked school buses. No school district shall utilize a school bus loading area warning sign unless such sign complies with the requirements of section 60-6,176.

Source: Laws 1973, LB 45, § 60; Laws 1974, LB 863, § 2; Laws 1977, LB 41, § 11; Laws 1987, LB 347, § 1; R.S.1943, (1988), § 39-660; Laws 1993, LB 370, § 271; Laws 1993, LB 575, § 10; Laws 2012, LB1039, § 2; Laws 2013, LB500, § 1.

60-6,176 School bus loading area warning signs; Department of Transportation; duties.

The Department of Transportation shall by rule and regulation adopt and promulgate uniform standards for school bus loading area warning signs. Such standards shall include requirements for the size, material, construction, and required wording. No school district shall use a school bus loading area warning sign unless such sign complies with all rules and regulations adopted and promulgated by the department. The cost of any sign shall be an obligation of the school district.

Source: Laws 1987, LB 347, § 2; R.S.1943, (1988), § 39-660.01; Laws 1993, LB 370, § 272; Laws 2017, LB339, § 210.

60-6,177 Signs relating to overtaking and passing school buses.

The Department of Transportation shall post on highways of the state highway system outside of business and residential districts signs to the effect that it is unlawful to pass school buses stopped to load or unload children. Such signs shall be adequate in size and number to properly inform the public of the provisions relative to such passing.

Source: Laws 1973, LB 45, § 61; R.S.1943, (1988), § 39-661; Laws 1993, LB 370, § 273; Laws 2017, LB339, § 211.

(m) MISCELLANEOUS RULES

60-6,179.01 Use of handheld wireless communication device; prohibited acts; enforcement; violation; penalty.

(1) This section does not apply to an operator of a commercial motor vehicle if section 60-6,179.02 applies.

(2) Except as otherwise provided in subsection (3) of this section, no person shall use a handheld wireless communication device to read a written communication, manually type a written communication, or send a written communication while operating a motor vehicle which is in motion.

(3) The prohibition in subsection (2) of this section does not apply to:

(a) A person performing his or her official duties as a law enforcement officer, a firefighter, an ambulance driver, or an emergency medical technician; or

(b) A person operating a motor vehicle in an emergency situation.

(4) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a traffic violation or some other offense.

(5) Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

(a) Two hundred dollars for the first offense;

(b) Three hundred dollars for a second offense; and

(c) Five hundred dollars for a third and subsequent offense.

(6) For purposes of this section:

(a) Commercial motor vehicle has the same meaning as in section 75-362;

(b)(i) Handheld wireless communication device means any device that provides for written communication between two or more parties and is capable of receiving, displaying, or transmitting written communication.

(ii) Handheld wireless communication device includes, but is not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant, a pager, or a laptop computer.

(iii) Handheld wireless communication device does not include an electronic device that is part of the motor vehicle or permanently attached to the motor vehicle or a handsfree wireless communication device; and

(c) Written communication includes, but is not limited to, a text message, an instant message, electronic mail, and Internet web sites.

Source: Laws 2010, LB945, § 3; Laws 2012, LB751, § 44; Laws 2014, LB983, § 55.

60-6,179.02 Operator of commercial motor vehicle; operator of certain passenger motor vehicle; operator of school bus; texting while driving prohibited; exception; use of handheld mobile telephone while driving prohibited; exception; violation; penalty.

(1)(a) Except as otherwise provided in subdivision (1)(b) of this section, no operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, shall engage in texting while driving such vehicle.

(b) Texting while driving is permissible by an operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, when necessary to communicate with law enforcement officials or other emergency services.

(2)(a) Except as otherwise provided in subdivision (2)(b) of this section, no operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, shall use a handheld mobile telephone while driving

and no motor carrier shall allow or require its operators to use a handheld mobile telephone while driving such vehicle.

(b) Using a handheld mobile telephone is permissible by an operator of a commercial motor vehicle or a motor vehicle designed or used to transport between nine and fifteen passengers, including the driver, not for direct compensation, if the vehicle does not otherwise meet the definition of a commercial motor vehicle, when necessary to communicate with law enforcement officials or other emergency services.

(3)(a) Except as otherwise provided in subdivision (3)(b) of this section, no operator of a school bus shall engage in texting during school bus operations.

(b) Texting while driving is permissible by an operator of a school bus during school bus operations when necessary to communicate with law enforcement officials or other emergency services.

(4)(a) Except as otherwise provided in subdivision (4)(b) of this section, no operator of a school bus shall use a handheld mobile telephone during school bus operations.

(b) Using a handheld mobile telephone is permissible by an operator of a school bus during school bus operations when necessary to communicate with law enforcement officials or other emergency services.

(5) Any person who violates this section shall be guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be subject to disqualification as provided in section 60-4,168, shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182, and shall be fined:

(a) Two hundred dollars for the first offense;

(b) Three hundred dollars for a second offense; and

(c) Five hundred dollars for a third and subsequent offense.

(6) For purposes of this section:

(a) Commercial motor vehicle has the same meaning as in section 75-362;

(b) Driving means operating a commercial motor vehicle, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the operator moves the vehicle to the side of, or off, a highway and halts in a location where the vehicle can safely remain stationary;

(c) Electronic device includes, but is not limited to, a cellular telephone; a personal digital assistant; a pager; a computer; or any other device used to input, write, send, receive, or read text;

(d) Mobile telephone means a mobile communication device that falls under or uses any commercial mobile radio service as defined in regulations of the Federal Communications Commission, 47 C.F.R. 20.3. Mobile telephone does not include two-way or citizens band radio services;

(e) School bus operations means the use of a school bus to transport school children or school personnel;

(f)(i) Texting means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access an Internet web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any

other form of electronic text retrieval or entry for present or future communication.

(ii) Texting does not include:

(A) Inputting, selecting, or reading information on a global positioning system or navigation system;

(B) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

(C) Using a device capable of performing multiple functions, including, but not limited to, fleet management systems, dispatching devices, smartphones, citizens band radios, and music players, for a purpose other than texting; and

(g) Use a handheld mobile telephone means:

(i) Using at least one hand to hold a mobile telephone to conduct a voice communication;

(ii) Dialing or answering a mobile telephone by pressing more than a single button; or

(iii) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position and restrained by a seat belt that is installed in accordance with 49 C.F.R. 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

Source: Laws 2012, LB751, § 45; Laws 2014, LB983, § 56.

(n) SPEED RESTRICTIONS

60-6,186 Speed; maximum limits; signs.

(1) Except when a special hazard exists that requires lower speed for compliance with section 60-6,185, the limits set forth in this section and sections 60-6,187, 60-6,188, 60-6,305, and 60-6,313 shall be the maximum lawful speeds unless reduced pursuant to subsection (2) of this section, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

(a) Twenty-five miles per hour in any residential district;

(b) Twenty miles per hour in any business district;

(c) Fifty miles per hour upon any highway that is gravel or not dustless surfaced;

(d) Fifty-five miles per hour upon any dustless-surfaced highway not a part of the state highway system;

(e) Sixty-five miles per hour upon any four-lane divided highway not a part of the state highway system;

(f) Sixty-five miles per hour upon any part of the state highway system other than an expressway, a super-two highway, or a freeway;

(g) Seventy miles per hour upon an expressway or a super-two highway that is part of the state highway system;

(h) Seventy miles per hour upon a freeway that is part of the state highway system but not part of the National System of Interstate and Defense Highways; and

(i) Seventy-five miles per hour upon the National System of Interstate and Defense Highways, except that the maximum speed limit shall be sixty-five miles per hour for:

(i) Any portion of the National System of Interstate and Defense Highways located in Douglas County; and

(ii) That portion of the National System of Interstate and Defense Highways designated as Interstate 180 in Lancaster County and Interstate 129 in Dakota County.

(2) The maximum speed limits established in subsection (1) of this section may be reduced by the Department of Transportation or by local authorities pursuant to section 60-6,188 or 60-6,190.

(3) The Department of Transportation and local authorities may erect and maintain suitable signs along highways under their respective jurisdictions in such number and at such locations as they deem necessary to give adequate notice of the speed limits established pursuant to subsection (1) or (2) of this section upon such highways.

Source: Laws 1973, LB 45, § 62; Laws 1974, LB 873, § 1; Laws 1975, LB 381, § 1; Laws 1977, LB 256, § 1; Laws 1987, LB 430, § 1; R.S.1943, (1988), § 39-662; Laws 1993, LB 370, § 282; Laws 1996, LB 901, § 7; Laws 2007, LB35, § 2; Laws 2017, LB339, § 212; Laws 2018, LB1009, § 6.
Effective date July 19, 2018.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,188 Construction zone; signs; Director-State Engineer; authority.

(1) The maximum speed limit through any maintenance, repair, or construction zone on the state highway system shall be thirty-five miles per hour in rural areas and twenty-five miles per hour in urban areas.

(2) Such speed limits shall take effect only after appropriate signs giving notice of the speed limit are erected or displayed in a conspicuous place in advance of the area where the maintenance, repair, or construction activity is or will be taking place. Such signs shall conform to the manual and shall be regulatory signs imposing a legal obligation and restriction on all traffic proceeding into the maintenance, construction, or repair zone. The signs may be displayed upon a fixed, variable, or movable stand. While maintenance, construction, or repair is being performed, the signs may be mounted upon moving Department of Transportation vehicles displaying such signs well in advance of the maintenance zone.

(3) The Director-State Engineer may increase the speed limit through any highway maintenance, repair, or construction zone in increments of five miles per hour if the speed set does not exceed the maximum speed limits established in sections 60-6,186, 60-6,187, 60-6,189, 60-6,190, 60-6,305, and 60-6,313. The Director-State Engineer may delegate the authority to raise speed limits through any maintenance, repair, or construction zone to any department employee in a supervisory capacity or may delegate such authority to a county, municipal, or local engineer who has the duty to maintain the state highway system in such jurisdiction if the maintenance is performed on behalf of the department by contract with the local authority. Such increased speed limit

through a maintenance, repair, or construction zone shall be effective when the Director-State Engineer or any officer to whom authority has been delegated gives a written order for such increase and signs posting such speed limit are erected or displayed.

(4) The Department of Transportation shall post signs in maintenance, repair, or construction zones which inform motorists that the fine for exceeding the posted speed limit in such zones is doubled.

Source: Laws 1993, LB 370, § 284; Laws 1996, LB 901, § 9; Laws 2017, LB339, § 213.

60-6,189 Driving over bridges; maximum speed; determination by Department of Transportation or local authority; effect.

(1) No person shall drive a vehicle over any public bridge, causeway, viaduct, or other elevated structure at a speed which is greater than the maximum speed which can be maintained with safety thereon when such structure is posted with signs as provided in subsection (2) of this section.

(2) The Department of Transportation or a local authority may conduct an investigation of any bridge or other elevated structure constituting a part of a highway under its jurisdiction, and if it finds that such structure cannot safely withstand vehicles traveling at the speed otherwise permissible, the department or local authority shall determine and declare the maximum speed of vehicles which such structure can safely withstand and shall cause suitable signs stating such maximum speed to be erected and maintained before each end of such structure.

(3) Upon the trial of any person charged with a violation of subsection (1) of this section, proof of such determination of the maximum speed by the department or local authority and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on such bridge or structure.

Source: Laws 1993, LB 370, § 285; Laws 2017, LB339, § 214.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,190 Establishment of state speed limits; power of Department of Transportation; other than state highway system; power of local authority; signs.

(1) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any maximum speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, place, or part of the state highway system outside of the corporate limits of cities and villages as well as inside the corporate limits of cities and villages on freeways which are part of the state highway system, it may determine and set a reasonable and safe maximum speed limit for such intersection, place, or part of such highway which shall be the lawful speed limit when appropriate signs giving notice thereof are erected at such intersection, place, or part of the highway, except that the maximum rural and freeway limits shall not be exceeded. Such a maximum speed limit may be set to be effective at all times or at such times as are indicated upon such signs.

(2) The speed limits set by the department shall not be a departmental rule, regulation, or order subject to the statutory procedures for such rules, regula-

tions, or orders but shall be an authorization over the signature of the Director-State Engineer and shall be maintained on permanent file at the headquarters of the department. Certified copies of such authorizations shall be available from the department at a reasonable cost for duplication. Any change to such an authorization shall be made by a new authorization which cancels the previous authorization and establishes the new limit, but the new limit shall not become effective until signs showing the new limit are erected as provided in subsection (1) of this section.

(3) On county highways which are not part of the state highway system or within the limits of any state institution or any area under control of the Game and Parks Commission or a natural resources district and which are outside of the corporate limits of cities and villages, county boards shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department. The limit outside of a business or residential district shall not be decreased to less than thirty-five miles per hour.

(4) On all highways within their corporate limits, except on state-maintained freeways which are part of the state highway system, incorporated cities and villages shall have the same power and duty to alter the maximum speed limits as the department if the change is based on engineering and traffic investigation, except that no imposition of speed limits on highways which are part of the state highway system in cities and villages under forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be effective without the approval of the department.

(5) The director of any state institution, the Game and Parks Commission, or a natural resources district, with regard to highways which are not a part of the state highway system, which are within the limits of such institution or area under Game and Parks Commission or natural resources district control, and which are outside the limits of any incorporated city or village, shall have the same power and duty to alter the maximum speed limits as the department if the change is based on an engineering and traffic investigation comparable to that made by the department.

(6) Not more than six such speed limits shall be set per mile along a highway, except in the case of reduced limits at intersections. The difference between adjacent speed limits along a highway shall not be reduced by more than twenty miles per hour, and there shall be no limit on the difference between adjacent speed limits for increasing speed limits along a highway.

(7) When the department or a local authority determines by an investigation that certain vehicles in addition to those specified in sections 60-6,187, 60-6,305, and 60-6,313 cannot with safety travel at the speeds provided in sections 60-6,186, 60-6,187, 60-6,189, 60-6,305, and 60-6,313 or set pursuant to this section or section 60-6,188 or 60-6,189, the department or local authority may restrict the speed limit for such vehicles on highways under its respective jurisdiction and post proper and adequate signs.

Source: Laws 1973, LB 45, § 63; Laws 1984, LB 861, § 17; Laws 1986, LB 436, § 1; R.S.1943, (1988), § 39-663; Laws 1993, LB 370, § 286; Laws 1996, LB 901, § 10; Laws 2010, LB805, § 11; Laws 2017, LB113, § 50; Laws 2017, LB339, § 215.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182 et seq.

60-6,193 Minimum speed regulation; impeding traffic.

(1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(2) On a freeway no motor vehicle, except emergency vehicles, shall be operated at a speed of less than forty miles per hour or at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for the safe operation of the motor vehicle because of weather, visibility, roadway, or traffic conditions. All vehicles entering or leaving such freeway from an acceleration or deceleration lane shall conform with the minimum speed regulations while they are within the roadway of the freeway. The minimum speed of forty miles per hour may be altered by the Department of Transportation or local authorities on freeways under their respective jurisdictions.

(3) Whenever the department or any local authority within its respective jurisdiction determines on the basis of an engineering and traffic investigation that low speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(4) Vehicular, animal, and pedestrian traffic prohibited on freeways by the Nebraska Rules of the Road shall not travel on any other roadway where minimum speed limits of twenty miles per hour or more are posted.

(5) Any minimum speed limit which is imposed under subsection (2) or (3) of this section shall not be effective until appropriate and adequate signs are erected along the roadway affected by such regulation apprising motorists of such limitation.

(6) On any freeway, or other highway providing for two or more lanes of travel in one direction, vehicles shall not intentionally impede the normal flow of traffic by traveling side by side and at the same speed while in adjacent lanes. This subsection shall not be construed to prevent vehicles from traveling side by side in adjacent lanes because of congested traffic conditions.

Source: Laws 1973, LB 45, § 65; R.S.1943, (1988), § 39-665; Laws 1993, LB 370, § 289; Laws 2017, LB339, § 216.

(o) ALCOHOL AND DRUG VIOLATIONS**60-6,196.01 Driving under influence of alcoholic liquor or drug; additional penalty.**

In addition to any other penalty provided for operating a motor vehicle in violation of section 60-6,196, if a person has a prior conviction as defined in section 60-6,197.02 for a violation punishable as a felony under section 60-6,197.03 and is subsequently found to have operated or been in the actual physical control of any motor vehicle when such person has (1) a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred

milliliters of his or her blood or (2) a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class IIIA misdemeanor.

Source: Laws 2011, LB675, § 7.

60-6,197 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; when test administered; refusal; advisement; effect; violation; penalty.

(1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any person arrested as described in subsection (2) of this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of subsection (1) of section 60-6,196, the person shall be subject to the administrative license revocation procedures provided in sections 60-498.01 to 60-498.04 and upon conviction be punished as provided in sections 60-6,197.02 to 60-6,197.08. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative license revocation procedures provided in sections 60-498.01 to 60-498.04 and shall be guilty of a crime and upon conviction punished as provided in sections 60-6,197.02 to 60-6,197.08.

(4) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (3) of this section and sections 60-498.01 to 60-498.04 upon return.

(5) Any person who is required to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be advised that refusal to submit

to such test or tests is a separate crime for which the person may be charged. Failure to provide such advisement shall not affect the admissibility of the chemical test result in any legal proceedings. However, failure to provide such advisement shall negate the state's ability to bring any criminal charges against a refusing party pursuant to this section.

(6) Refusal to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of section 60-6,196 or a city or village ordinance enacted in conformance with such section.

Source: Laws 1959, c. 168, § 1, p. 613; Laws 1961, c. 187, § 2, p. 577; Laws 1963, c. 229, § 1, p. 716; Laws 1971, LB 948, § 2; Laws 1972, LB 1095, § 2; R.S.Supp.,1972, § 39-727.03; Laws 1982, LB 568, § 6; Laws 1986, LB 153, § 4; Laws 1987, LB 404, § 2; Laws 1987, LB 224, § 1; Laws 1988, LB 377, § 2; Laws 1990, LB 799, § 2; Laws 1992, LB 872, § 1; Laws 1992, LB 291, § 5; R.S.Supp.,1992, § 39-669.08; Laws 1993, LB 370, § 293; Laws 1993, LB 564, § 8; Laws 1996, LB 939, § 2; Laws 1998, LB 309, § 14; Laws 1999, LB 585, § 6; Laws 2000, LB 1004, § 2; Laws 2001, LB 38, § 48; Laws 2001, LB 773, § 16; Laws 2003, LB 209, § 12; Laws 2004, LB 208, § 11; Laws 2011, LB667, § 33.

Cross References

Applicability of statute to private property, see section 60-6,108.

Conviction of felony involving use of motor vehicle, transmittal of abstract, see section 60-497.02.

Ineligibility for pretrial diversion, see section 29-3604.

Operator's license, assessment of points and revocation, see sections 60-497.01, 60-498, and 60-4,182 et seq.

Violation of ordinance, prosecuting attorney, consult victim, see section 29-120.

60-6,197.01 Driving while license has been revoked; driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles; additional restrictions authorized.

(1) Upon conviction for a violation described in section 60-6,197.06 or a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions:

(a)(i) The court shall order all motor vehicles owned by the person so convicted immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this subdivision at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this subdivision, immobilized or immobilization means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates; and

(ii)(A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section

60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

(B) A registered owner who executes an affidavit pursuant to subdivision (1)(a)(ii)(A) of this section which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and may not file any additional affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

(C) The department shall adopt and promulgate rules and regulations to implement the provisions of subdivision (1)(a) of this section; or

(b) As an alternative to subdivision (1)(a) of this section, the court shall order the convicted person, in order to operate a motor vehicle, to obtain an ignition interlock permit and install an ignition interlock device on each motor vehicle owned or operated by the convicted person if he or she was sentenced to an operator's license revocation of at least one year. If the person's operator's license has been revoked for at least a one-year period, after a minimum of a forty-five-day no driving period, the person may operate a motor vehicle with an ignition interlock permit and an ignition interlock device pursuant to this subdivision and shall retain the ignition interlock permit and ignition interlock device for not less than a one-year period or the period of revocation ordered by the court, whichever is longer. No ignition interlock permit may be issued until sufficient evidence is presented to the department that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court.

(2) In addition to the restrictions required by subdivision (1)(b) of this section, the court may require a person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 to use a continuous alcohol monitoring device and abstain from alcohol use for a period of time not to exceed the maximum term of license revocation ordered by the court. A continuous alcohol monitoring device shall not be ordered for a person convicted of a second or subsequent violation unless the installation of an ignition interlock device is also required.

Source: Laws 1999, LB 585, § 7; Laws 2001, LB 38, § 49; Laws 2006, LB 925, § 10; Laws 2008, LB736, § 7; Laws 2009, LB497, § 5; Laws 2010, LB924, § 3; Laws 2013, LB158, § 3.

60-6,197.02 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; terms, defined; prior convictions; use; sentencing provisions; when applicable.

(1) A violation of section 60-6,196 or 60-6,197 shall be punished as provided in sections 60-6,196.01 and 60-6,197.03. For purposes of sentencing under sections 60-6,196.01 and 60-6,197.03:

(a) Prior conviction means a conviction for a violation committed within the fifteen-year period prior to the offense for which the sentence is being imposed as follows:

(i) For a violation of section 60-6,196:

(A) Any conviction for a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197; or

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198; or

(ii) For a violation of section 60-6,197:

(A) Any conviction for a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(B) Any conviction for a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197; or

(C) Any conviction under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the person was convicted would have been a violation of subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198;

(b) Prior conviction includes any conviction under subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or 60-6,198, or any city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197, as such sections or city or village ordinances existed at the time of such conviction regardless of subsequent amendments to any of such sections or city or village ordinances; and

(c) Fifteen-year period means the period computed from the date of the prior offense to the date of the offense which resulted in the conviction for which the sentence is being imposed.

(2) In any case charging a violation of section 60-6,196 or 60-6,197, the prosecutor or investigating agency shall use due diligence to obtain the person's driving record from the Department of Motor Vehicles and the person's driving record from other states where he or she is known to have resided within the last fifteen years. The prosecutor shall certify to the court, prior to sentencing, that such action has been taken. The prosecutor shall present as evidence for purposes of sentence enhancement a court-certified copy or an authenticated copy of a prior conviction in another state. The court-certified or authenticated copy shall be prima facie evidence of such prior conviction.

(3) For each conviction for a violation of section 60-6,196 or 60-6,197, the court shall, as part of the judgment of conviction, make a finding on the record

as to the number of the convicted person's prior convictions. The convicted person shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

(4) A person arrested for a violation of section 60-6,196 or 60-6,197 before January 1, 2012, but sentenced pursuant to section 60-6,197.03 for such violation on or after January 1, 2012, shall be sentenced according to the provisions of section 60-6,197.03 in effect on the date of arrest.

Source: Laws 2004, LB 208, § 12; Laws 2005, LB 594, § 2; Laws 2009, LB497, § 6; Laws 2011, LB667, § 34; Laws 2011, LB675, § 8.

60-6,197.03 Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.

Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of six months from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to section 60-6,211.05 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of sixty days from the date ordered by the court. The court shall order that during the period of revocation the person apply for an ignition interlock permit pursuant to section 60-6,211.05. Such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a five-hundred-dollar fine;

(2) If such person has not had a prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a

period of one year from the date ordered by the court. The revocation order shall require that the person apply for an ignition interlock permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the revocation period and have an ignition interlock device installed on any motor vehicle he or she operates during the revocation period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for two days or the imposition of not less than one hundred twenty hours of community service;

(3) Except as provided in subdivision (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and have an ignition interlock device installed on any motor vehicle he or she owns or operates for at least one year. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of eighteen months from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for ten days or the imposition of not less than two hundred forty hours of community service;

(4) Except as provided in subdivision (6) of this section, if such person has had two prior convictions, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence

suspension, order that the operator's license of such person be revoked for a period of at least two years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(5) If such person has had one prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, order payment of a one-thousand-dollar fine and revoke the operator's license of such person for a period of at least eighteen months but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ninety days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least eighteen months but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days and that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device for not less than a one-year period issued pursuant to section 60-6,211.05. The court shall also issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. If the person has an ignition interlock device installed as required under this subdivision, the person shall not be eligible for reinstatement of his or her operator's license until he or she has had the ignition interlock device installed for the period ordered by the court. The order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for thirty days;

(6) If such person has had two prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court

shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of at least five years but not more than fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine, confinement in the city or county jail for sixty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than sixty days;

(7) Except as provided in subdivision (8) of this section, if such person has had three prior convictions, such person shall be guilty of a Class IIIA felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for ninety days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than ninety days;

(8) If such person has had three prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIA felony, with a minimum sentence of one year of imprisonment, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred twenty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred twenty days;

(9) Except as provided in subdivision (10) of this section, if such person has had four or more prior convictions, such person shall be guilty of a Class IIA felony with a minimum sentence of two years' imprisonment, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days; and

(10) If such person has had four or more prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class II felony with a minimum sentence of two years' imprisonment and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order that the operator's license of such person be revoked for a

period of fifteen years from the date ordered by the court. The revocation order shall require that the person not drive for a period of forty-five days, after which the court may order that during the period of revocation the person apply for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of probation or sentence suspension shall also include, as conditions, the payment of a two-thousand-dollar fine, confinement in the city or county jail for one hundred eighty days, and, upon release from such confinement, the use of a continuous alcohol monitoring device and abstention from alcohol use at all times for no less than one hundred eighty days.

Source: Laws 2004, LB 208, § 13; Laws 2005, LB 594, § 3; Laws 2006, LB 925, § 11; Laws 2007, LB578, § 4; Laws 2008, LB736, § 8; Laws 2009, LB497, § 7; Laws 2010, LB924, § 4; Laws 2011, LB667, § 35; Laws 2011, LB675, § 9; Laws 2013, LB158, § 4; Laws 2015, LB605, § 77; Laws 2016, LB1094, § 32.

60-6,197.05 Driving under influence of alcoholic liquor or drugs; implied consent to chemical test; revocation; effect.

Any period of revocation imposed by the court for a violation of section 60-6,196 or 60-6,197 shall be reduced by any period of revocation imposed under sections 60-498.01 to 60-498.04, including any period during which a person has a valid ignition interlock permit, arising from the same incident.

Source: Laws 2004, LB 208, § 15; Laws 2009, LB497, § 8; Laws 2011, LB667, § 36.

60-6,197.06 Operating motor vehicle during revocation period; penalties.

(1) Unless otherwise provided by law pursuant to an ignition interlock permit, any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to section 28-306, section 60-698, subdivision (4), (5), (6), (7), (8), (9), or (10) of section 60-6,197.03, or section 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197 as such subdivisions existed prior to July 16, 2004, shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

(2) If such person has had a conviction under this section or under subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197, as such subsections existed prior to July 16, 2004, and operates a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to such conviction, such person shall be guilty of a Class IIA felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for an additional period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final

judgment of any appeal or review, or upon the date that any probation is revoked.

Source: Laws 2004, LB 208, § 16; Laws 2006, LB 925, § 12; Laws 2009, LB497, § 9; Laws 2015, LB605, § 78; Laws 2016, LB275, § 1.

60-6,197.09 Driving under influence of alcoholic liquor or drugs; not eligible for probation or suspended sentence.

Notwithstanding the provisions of section 60-6,197.03, a person who commits a violation punishable under subdivision (3)(b) or (c) of section 28-306 or subdivision (3)(b) or (c) of section 28-394 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while participating in criminal proceedings for a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance enacted in accordance with section 60-6,196 or 60-6,197, or a law of another state if, at the time of the violation under the law of such other state, the offense for which the person was charged would have been a violation of section 60-6,197, shall not be eligible to receive a sentence of probation or a suspended sentence for either violation committed in this state.

Source: Laws 2006, LB 925, § 14; Laws 2011, LB667, § 37.

60-6,197.10 Driving under influence of alcohol or drugs; public education campaign; Department of Motor Vehicles; duties.

The Department of Motor Vehicles shall conduct an ongoing public education campaign to inform the residents of this state about the dangers and consequences of driving under the influence of alcohol or drugs in this state. Information shall include, but not be limited to, the criminal and administrative penalties for driving under the influence, any related laws, rules, instructions, and any explanatory matter. The department shall use its best efforts to utilize all available opportunities for making public service announcements on television and radio broadcasts for the public education campaign and to obtain and utilize federal funds for highway safety and other grants in conducting the public education campaign. The information may be included in publications containing information related to other motor vehicle laws and shall be given wide distribution by the department.

Source: Laws 2011, LB667, § 38.

60-6,198 Driving under influence of alcoholic liquor or drugs; serious bodily injury; violation; penalty.

(1) Any person who, while operating a motor vehicle in violation of section 60-6,196 or 60-6,197, proximately causes serious bodily injury to another person or an unborn child of a pregnant woman shall be guilty of a Class IIIA felony and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least sixty days and not more than fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for the same period.

(2) For purposes of this section, serious bodily injury means bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a temporary or protracted loss or impairment of the function of any part or organ of the body.

(3) For purposes of this section, unborn child has the same meaning as in section 28-396.

(4) The crime punishable under this section shall be treated as a separate and distinct offense from any other offense arising out of acts alleged to have been committed while the person was in violation of this section.

Source: Laws 1986, LB 153, § 6; Laws 1992, LB 291, § 13; R.S.Supp.,1992, § 39-669.39; Laws 1993, LB 370, § 307; Laws 1997, LB 364, § 17; Laws 2001, LB 38, § 50; Laws 2006, LB 57, § 10; Laws 2011, LB667, § 39; Laws 2011, LB675, § 10.

Cross References

Conviction of felony involving use of vehicle, transmittal of abstract, see section 60-497.02.

60-6,209 License revocation; reinstatement; conditions; department; Board of Pardons; duties; fee.

(1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles not more often than once per calendar year, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application and a nonrefundable application fee of one hundred dollars, the Director of Motor Vehicles shall review the application and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription;

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason; and

(f) Such person has agreed that, if the Board of Pardons reinstates such person's eligibility to apply for an ignition interlock permit, such person must provide proof, to the satisfaction of the department, that an ignition interlock device has been installed and is maintained on one or more motor vehicles such person operates for the duration of the original fifteen-year revocation period and such person must operate only motor vehicles so equipped for the duration of the original fifteen-year revocation period.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified or licensed by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period on such person's continued recovery and, if such person is a holder of an ignition interlock permit, shall be conditioned for the duration of the original revocation period on such person's operation of only motor vehicles equipped with an ignition interlock device. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or an ignition interlock permit or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Source: Laws 1992, LB 291, § 10; R.S.Supp.,1992, § 39-669.19; Laws 1993, LB 370, § 304; Laws 1998, LB 309, § 18; Laws 2001, LB 38, § 54; Laws 2003, LB 209, § 13; Laws 2004, LB 208, § 12; Laws 2004, LB 1083, § 102; Laws 2008, LB736, § 9; Laws 2014, LB998, § 12.

60-6,211.05 Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

(1) If an order is granted under section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the court may order that the defendant install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant during the period of revocation. Upon sufficient evidence of installation, the defendant may apply to the director for an ignition interlock permit pursuant to section 60-4,118.06. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than three-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or three-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath. The Department of Motor Vehicles shall issue an ignition interlock permit to the defendant under section 60-4,118.06 only upon sufficient proof that a defendant has installed an ignition interlock device on any motor vehicle that the defendant will operate during his or her release.

(2) If the court orders installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (8) of section 60-498.01. A person shall be eligible to be issued an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device if he or she is not subject to any other suspension, cancellation, required no-driving period, or period of revocation and has successfully completed the ignition interlock permit application process. The Department of Motor Vehicles shall review its records and the driving record abstract of any person who applies for an ignition interlock permit allowing operation of a motor vehicle equipped with an ignition interlock device to determine (a) the applicant's eligibility for an ignition interlock permit, (b) the applicant's previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or any previous administrative license revocation, if any, and (c) if the applicant is subject to any required no-drive periods before the ignition interlock permit may be issued.

(4)(a) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, the court or the Board of Pardons shall order the defendant to apply for an ignition interlock permit as provided in section 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device.

(b) Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation and shall allow operation by the defendant of only an ignition-interlock-equipped motor vehicle.

(c) Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a reprieve is made.

(5) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without such device or if the device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(6) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her ignition interlock permit revoked and be unable to apply for reinstatement for the duration of the revocation period imposed by the court.

(7) The director shall adopt and promulgate rules and regulations regarding the approval of ignition interlock devices, the means of installing ignition interlock devices, and the means of administering the ignition interlock permit program.

(8)(a) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid directly to the ignition interlock provider by the person complying with an order for an ignition interlock permit and installation of an ignition interlock device.

(b) If the Department of Motor Vehicles has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section, such costs shall be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available, according to rules and regulations adopted and promulgated by the department. Such costs shall also be paid out of the Department of Motor Vehicles Ignition Interlock Fund if such funds are available and if the court or the Board of Pardons, whichever is applicable, has determined the person to be indigent and incapable of paying for the cost of installation, removal, or maintenance of the ignition interlock device in accordance with this section. The Department of Motor Vehicles Ignition Interlock Fund is created. Money in the Department of Motor Vehicles Ignition Interlock Fund may be used for transfers to the General Fund at the direction of the Legislature. On October 1, 2017, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence Prevention Cash Fund. On October 1, 2018, or as soon thereafter as administratively possible, the State Treasurer shall transfer twenty-five thousand dollars from the Department of Motor Vehicles Ignition Interlock Fund to the Violence Prevention Cash Fund. Any money in the Department of Motor Vehicles Ignition Interlock Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(9)(a)(i) An ignition interlock service facility shall notify the appropriate district probation office or the appropriate court, as applicable, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of

the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(ii) An ignition interlock service facility shall notify the Department of Motor Vehicles, if the ignition interlock permit is issued pursuant to sections 60-498.01 to 60-498.04, of any evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, when the facility becomes aware of such evidence. Failure of the facility to provide notification as provided in this subdivision is a Class V misdemeanor.

(b) If a district probation office receives evidence of tampering with or circumvention of an ignition interlock device, or any attempts to do so, from an ignition interlock service facility, the district probation office shall notify the appropriate court of such violation. The court shall immediately schedule an evidentiary hearing to be held within fourteen days after receiving such evidence, either from the district probation office or an ignition interlock service facility, and the court shall cause notice of the hearing to be given to the person operating a motor vehicle pursuant to an order under subsection (1) of this section. If the person who is the subject of such evidence does not appear at the hearing and show cause why the order made pursuant to subsection (1) of this section should remain in effect, the court shall rescind the original order. Nothing in this subsection shall apply to an order made by the Board of Pardons pursuant to section 83-1,127.02.

(10) Notwithstanding any other provision of law, the issuance of an ignition interlock permit by the Department of Motor Vehicles under section 60-498.01 or an order for the installation of an ignition interlock device and ignition interlock permit made pursuant to subsection (1) of this section as part of a conviction, as well as the administration of such court order by the Office of Probation Administration for the installation, maintenance, and removal of such device, as applicable, shall not be construed to create an order of probation when an order of probation has not been issued.

Source: Laws 1993, LB 564, § 6; Laws 1998, LB 309, § 24; Laws 2001, LB 38, § 55; Laws 2003, LB 209, § 15; Laws 2004, LB 208, § 22; Laws 2006, LB 925, § 16; Laws 2008, LB736, § 10; Laws 2009, LB497, § 10; Laws 2010, LB924, § 5; Laws 2011, LB667, § 40; Laws 2012, LB751, § 46; Laws 2013, LB158, § 5; Laws 2013, LB199, § 27; Laws 2017, LB331, § 28.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-6,211.08 Open alcoholic beverage container; consumption of alcoholic beverages; prohibited acts; applicability of section to certain passengers of limousine or bus.

(1) For purposes of this section:

(a) Alcoholic beverage means (i) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, (ii) wine of not less than one-half of one percent of alcohol by volume, or (iii) distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from

whatever source or by whatever process produced. Alcoholic beverage does not include trace amounts not readily consumable as a beverage;

(b) Highway means a road or street including the entire area within the right-of-way;

(c) Limousine means a luxury vehicle used to provide prearranged passenger transportation on a dedicated basis at a premium fare that has a seating capacity of at least five and no more than fourteen persons behind the driver with a physical partition separating the driver seat from the passenger compartment. Limousine does not include taxicabs, hotel or airport buses or shuttles, or buses;

(d) Open alcoholic beverage container, except as provided in subsection (3) of section 53-123.04 and subdivision (1)(c) of section 53-123.11, means any bottle, can, or other receptacle:

(i) That contains any amount of alcoholic beverage; and

(ii)(A) That is open or has a broken seal or (B) the contents of which are partially removed; and

(e) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. Passenger area does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

(2) Except as otherwise provided in this section, it is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this state.

(3) Except as provided in section 53-186 or subsection (4) of this section, it is unlawful for any person to consume an alcoholic beverage (a) in a public parking area or on any highway in this state or (b) inside a motor vehicle while in a public parking area or on any highway in this state.

(4) This section does not apply to persons who are passengers of, but not drivers of, a limousine or bus being used in a charter or special party service as defined by rules and regulations adopted and promulgated by the Public Service Commission and subject to Chapter 75, article 3. Such passengers may possess open alcoholic beverage containers and may consume alcoholic beverages while such limousine or bus is in a public parking area or on any highway in this state if (a) the driver of the limousine or bus is prohibited from consuming alcoholic liquor and (b) alcoholic liquor is not present in any area that is readily accessible to the driver while in the driver's seat, including any compartments in such area.

Source: Laws 1999, LB 585, § 4; Laws 2006, LB 562, § 6; Laws 2011, LB281, § 3.

60-6,211.11 Prohibited acts relating to ignition interlock device; violation; penalty.

(1) Except as provided in subsection (2) of this section, any person ordered by a court or the Department of Motor Vehicles to operate only motor vehicles equipped with an ignition interlock device is guilty of a Class I misdemeanor if he or she (a) tampers with or circumvents and then operates a motor vehicle

equipped with an ignition interlock device installed under the court order or Department of Motor Vehicles order while the order is in effect or (b) operates a motor vehicle which is not equipped with an ignition interlock device in violation of the court order or Department of Motor Vehicles order.

(2) Any person ordered by a court or the Department of Motor Vehicles to operate only motor vehicles equipped with an ignition interlock device is guilty of a Class IV felony if he or she (a)(i) tampers with or circumvents and then operates a motor vehicle equipped with an ignition interlock device installed under the court order or Department of Motor Vehicles order while the order is in effect or (ii) operates a motor vehicle which is not equipped with an ignition interlock device in violation of the court order or Department of Motor Vehicles order and (b) operates the motor vehicle as described in subdivision (a)(i) or (ii) of this subsection when he or she has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(3) Any person who otherwise operates a motor vehicle equipped with an ignition interlock device in violation of the requirements of the court order or Department of Motor Vehicles order under which the device was installed shall be guilty of a Class III misdemeanor.

Source: Laws 2011, LB667, § 41; Laws 2014, LB998, § 13.

(q) LIGHTING AND WARNING EQUIPMENT

60-6,219 Motor vehicle; autocycle or motorcycle; lights; requirements; prohibited acts.

(1) Every motor vehicle upon a highway within this state during the period from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons or vehicles upon the highway at a distance of five hundred feet ahead shall be equipped with lighted headlights and taillights as respectively required in this section for different classes of vehicles.

(2) Every motor vehicle, other than an autocycle, a motorcycle, a road roller, or road machinery, shall be equipped with two or more headlights, at the front of and on opposite sides of the motor vehicle. The headlights shall comply with the requirements and limitations set forth in sections 60-6,221 and 60-6,223.

(3) Every motor vehicle and trailer, other than an autocycle, a motorcycle, a road roller, or road machinery, shall be equipped with one or more taillights, at the rear of the motor vehicle or trailer, exhibiting a red light visible from a distance of at least five hundred feet to the rear of such vehicle.

(4) Every autocycle or motorcycle shall be equipped with at least one and not more than two headlights and with a taillight exhibiting a red light visible from a distance of at least five hundred feet to the rear of such autocycle or motorcycle. The headlights shall comply with the requirements and limitations set forth in sections 60-6,221 and 60-6,223.

(5) The requirement in this section as to the distance from which lights must render obstructions visible or within which lights must be visible shall apply during the time stated in this section upon a straight, level, unlighted highway under normal atmospheric conditions.

(6) It shall be unlawful for any owner or operator of any motor vehicle to operate such vehicle upon a highway unless:

(a) The condition of the lights and electric circuit is such as to give substantially normal light output;

(b) Each taillight shows red directly to the rear, the lens covering each taillight is unbroken, each taillight is securely fastened, and the electric circuit is free from grounds or shorts;

(c) There is no more than one spotlight except for law enforcement personnel, government employees, and public utility employees;

(d) There are no more than two auxiliary driving lights and every such auxiliary light meets the requirements for auxiliary driving lights provided in section 60-6,225;

(e) If equipped with any lighting device, other than headlights, spotlights, or auxiliary driving lights, which projects a beam of light of an intensity greater than twenty-five candlepower, such lighting device meets the requirements of subsection (4) of section 60-6,225; and

(f) If equipped with side cowl or fender lights, there are no more than two such lights and each such side cowl or fender light emits an amber or white light.

Source: Laws 1931, c. 110, § 43, p. 319; Laws 1935, c. 134, § 8, p. 488; Laws 1939, c. 78, § 4, p. 319; C.S.Supp.,1941, § 39-1174; R.S. 1943, § 39-778; Laws 1955, c. 152, § 1, p. 450; Laws 1957, c. 366, § 6, p. 1249; R.R.S.1943, § 39-778; Laws 1975, LB 11, § 2; Laws 1981, LB 544, § 2; Laws 1987, LB 224, § 6; Laws 1989, LB 283, § 2; R.S.Supp.,1992, § 39-6,138; Laws 1993, LB 370, § 315; Laws 1993, LB 575, § 32; Laws 1995, LB 59, § 2; Laws 2015, LB231, § 31.

Cross References

Motor-driven cycles, light requirements, see section 60-6,187.

60-6,226 Brake and turnsignal light requirements; exceptions; signaling requirements.

(1) Any motor vehicle having four or more wheels which is manufactured or assembled, whether from a kit or otherwise, after January 1, 1954, designed or used for the purpose of carrying passengers or freight, any autocycle, or any trailer, in use on a highway, shall be equipped with brake and turnsignal lights in good working order.

(2) Motorcycles other than autocycles, motor-driven cycles, motor scooters, bicycles, electric personal assistive mobility devices, vehicles used solely for agricultural purposes, vehicles not designed and intended primarily for use on a highway, and, during daylight hours, fertilizer trailers as defined in section 60-326 and implements of husbandry designed primarily or exclusively for use in agricultural operations shall not be required to have or maintain in working order signal lights required by this section, but they may be so equipped. The operator thereof shall comply with the requirements for utilizing hand and arm signals or for utilizing such signal lights if the vehicle is so equipped.

Source: Laws 1993, LB 370, § 322; Laws 1995, LB 59, § 4; Laws 2002, LB 1105, § 458; Laws 2003, LB 238, § 6; Laws 2005, LB 274, § 243; Laws 2015, LB231, § 32; Laws 2018, LB909, § 99.
Effective date April 12, 2018.

Cross References

Hand and arm signals, see sections 60-6,162 and 60-6,163.

60-6,230 Lights; rotating or flashing; colored lights; when permitted.

(1) Except as provided in this section and sections 60-6,231 to 60-6,233, no person shall operate any motor vehicle or any equipment of any description on any highway in this state with any rotating or flashing light.

(2) Except for stop lights and directional signals, which may be red, yellow, or amber, no person shall display any color of light other than red on the rear of any motor vehicle or any equipment of any kind on any highway within this state.

(3) Amber rotating or flashing lights shall be displayed on vehicles of the Military Department for purpose of convoy control when on any state emergency mission.

(4) A single flashing white light may be displayed on the roof of school transportation vehicles during extremely adverse weather conditions.

(5) Blue and amber rotating or flashing lights may be displayed on (a) vehicles when operated by the Department of Transportation or any local authority for the inspection, construction, repair, or maintenance of highways, roads, or streets or (b) vehicles owned and operated by any public utility for the construction, maintenance, and repair of utility infrastructure on or near any highway.

Source: Laws 1969, c. 327, § 2, p. 1170; C.S.Supp.,1972, § 39-788.01; Laws 1979, LB 127, § 1; R.S.1943, (1988), § 39-6,148; Laws 1993, LB 370, § 326; Laws 1995, LB 59, § 6; Laws 2008, LB196, § 3; Laws 2015, LB181, § 1; Laws 2016, LB977, § 24; Laws 2017, LB339, § 217.

60-6,232 Rotating or flashing amber light; when permitted.

A rotating or flashing amber light or lights shall be displayed on the roof of any motor vehicle being operated by any rural mail carrier outside the corporate limits of any municipality in this state on or near any highway in the process of delivering mail.

A rotating or flashing amber light or lights may be displayed on (1) any vehicle of the Military Department while on any state emergency mission, (2) any motor vehicle being operated by any public utility, vehicle service, or towing service or any publicly or privately owned construction or maintenance vehicle while performing its duties on or near any highway, (3) any motor vehicle being operated by any member of the Civil Air Patrol, (4) any pilot vehicle escorting an overdimensional load, (5) any vehicle while actually engaged in the moving of houses, buildings, or other objects of extraordinary bulk, including unbaled livestock forage as authorized by subdivision (2)(f) of section 60-6,288, (6) any motor vehicle owned by or operated on behalf of a railroad carrier that is stopped to load or unload passengers, or (7) any motor vehicle operated by or for an emergency management worker as defined in section 81-829.39 or a storm spotter as defined in section 81-829.67 who is activated by a local emergency management organization.

Source: Laws 1969, c. 327, § 4, p. 1171; Laws 1971, LB 365, § 1; R.S.Supp.,1972, § 39-788.03; Laws 1977, LB 427, § 1; R.S.1943,

(1988), § 39-6,150; Laws 1993, LB 370, § 328; Laws 1995, LB 59, § 7; Laws 2000, LB 1361, § 4; Laws 2005, LB 471, § 1; Laws 2011, LB573, § 1.

(r) BRAKES

60-6,244 Motor vehicles; brakes; requirements.

(1) Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels and so constructed that no part which is liable to failure shall be common to the two, except that a motorcycle shall be required to be equipped with only one brake. All such brakes shall be maintained at all times in good working order.

(2) It shall be unlawful for any owner or operator of any motor vehicle, other than a motorcycle, to operate such motor vehicle upon a highway unless the brake equipment thereon qualifies with regard to maximum stopping distances from a speed of twenty miles per hour on dry asphalt or concrete pavement free from loose materials as follows:

(a) Two-wheel brakes, maximum stopping distance, forty feet;

(b) Four or more wheel brakes, vehicles up to seven thousand pounds gross weight, maximum stopping distance, thirty feet;

(c) Four or more wheel brakes, vehicles seven thousand pounds or more gross weight, maximum stopping distance, thirty-five feet;

(d) All hand, parking, or emergency brakes, vehicles up to seven thousand pounds gross weight, maximum stopping distance, fifty-five feet; and

(e) All hand, parking, or emergency brakes, vehicles seven thousand pounds or more gross weight, maximum stopping distance, sixty-five feet.

(3) All braking distances specified in this section shall apply to all vehicles whether unloaded or loaded to the maximum capacity permitted by law.

(4) The retarding force of one side of the vehicle shall not exceed the retarding force on the opposite side so as to prevent the vehicle stopping in a straight line.

(5) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1931, c. 110, § 38, p. 317; Laws 1939, c. 78, § 2, p. 318; C.S.Supp.,1941, § 39-1169; R.S.1943, § 39-773; Laws 1977, LB 314, § 2; R.S.1943, (1988), § 39-6,133; Laws 1993, LB 370, § 340; Laws 2018, LB909, § 100.
Effective date April 12, 2018.

(s) TIRES

60-6,250 Tires; requirements; cleats or projections prohibited; exceptions; permissive uses; special permits; exceptions.

(1) 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.

(2) 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:

(a) 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 November 1 and April 1, except that school buses, mail carrier vehicles, and emergency vehicles shall be permitted to use metal or metal-type studs at any time during the year;

(b) It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway; and

(c) 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.

(3) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer (a) having any metal tire in contact with the roadway or (b) equipped with solid rubber tires, except that this subsection shall not apply to farm vehicles having a gross weight of ten thousand pounds or less or to implements of husbandry.

(4) The Department of Transportation 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.

Source: Laws 1931, c. 110, § 36, p. 317; C.S.Supp.,1941, § 39-1167; R.S.1943, § 39-771; Laws 1965, c. 217, § 1, p. 633; Laws 1971, LB 678, § 2; R.S.Supp.,1972, § 39-771; Laws 1980, LB 619, § 3; Laws 1983, LB 50, § 1; Laws 1987, LB 504, § 3; R.S.1943, (1988), § 39-6,131; Laws 1993, LB 370, § 346; Laws 2017, LB339, § 218.

(t) WINDSHIELDS, WINDOWS, AND MIRRORS

60-6,254 Operator; view to rear required; outside mirrors authorized.

(1) No person shall drive a motor vehicle, other than a motorcycle, on a highway when the motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position unless such vehicle is equipped with a right-side and a left-side outside mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle. Temporary outside mirrors and attachments used when towing a vehicle shall be removed from such motor vehicle or retracted within the outside dimensions thereof when it is operated upon the highway without such trailer.

(2) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1931, c. 110, § 40, p. 318; C.S.Supp.,1941, § 39-1171; R.S.1943, § 39-775; Laws 1971, LB 396, § 3; R.S.Supp.,1972, § 39-775; Laws 1977, LB 314, § 1; R.S.1943, (1988), § 39-6,124; Laws 1993, LB 370, § 350; Laws 2018, LB909, § 101.
Effective date April 12, 2018.

60-6,255 Windshield and windows; nontransparent material prohibited; windshield equipment; requirements.

(1) Every motor vehicle registered pursuant to the Motor Vehicle Registration Act, except motorcycles, shall be equipped with a front windshield.

(2) It shall be unlawful for any person to drive any vehicle upon a highway with any sign, poster, or other nontransparent material upon the front windshield, side wing vents, or side or rear windows of such motor vehicle other than a certificate or other paper required to be so displayed by law. The front windshield, side wing vents, and side or rear windows may have a visor or other shade device which is easily moved aside or removable, is normally used by a motor vehicle operator during daylight hours, and does not impair the driver's field of vision.

(3) Every windshield on a motor vehicle, other than a motorcycle, shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(4) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1931, c. 110, § 41, p. 318; C.S.Supp.,1941, § 39-1172; R.S.1943, § 39-776; Laws 1977, LB 314, § 3; Laws 1987, LB 504, § 7; Laws 1989, LB 155, § 1; R.S.Supp.,1992, § 39-6,136; Laws 1993, LB 370, § 351; Laws 2005, LB 274, § 245; Laws 2018, LB909, § 102.

Effective date April 12, 2018.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,256 Objects placed or hung to obstruct or interfere with view of operator; unlawful; enforcement; penalty.

(1) It shall be unlawful for any person to operate a motor vehicle with any object placed or hung in or upon the motor vehicle, except required or permitted equipment of the motor vehicle, in such a manner as to significantly and materially obstruct or interfere with the view of the operator through the windshield or to prevent the operator from having a clear and full view of the road and condition of traffic behind the motor vehicle. Any sticker or identification authorized or required by the federal government or any agency thereof or the State of Nebraska or any political subdivision thereof may be placed upon the windshield of the motor vehicle without violating this section.

(2) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been cited or charged with a traffic violation or some other offense.

(3) Any person who violates this section is guilty of a traffic infraction. Any person who is found guilty of a traffic infraction under this section shall be assessed points on his or her motor vehicle operator's license pursuant to section 60-4,182 and shall be fined:

(a) Fifty dollars for the first offense;

(b) One hundred dollars for a second offense; and

(c) One hundred fifty dollars for a third and subsequent offense.

Source: Laws 1959, c. 173, § 1, p. 624; R.R.S.1943, § 39-7,123.04; Laws 1977, LB 41, § 30; R.S.1943, (1988), § 39-6,170; Laws 1993, LB 370, § 352; Laws 2011, LB500, § 2.

Cross References

Interference with view of driver by passengers or load prohibited, see section 60-6,179.

60-6,263 Safety glass; requirements; vehicles built after January 1, 1935; motorcycle windshield; requirements; violation; penalty.

(1) It shall be unlawful to operate on any highway in this state any motor vehicle, other than a motorcycle, manufactured or assembled, whether from a kit or otherwise, after January 1, 1935, which is designed or used for the purpose of carrying passengers unless such vehicle is equipped in all doors, windows, and windshields with safety glass. Any windshield attached to a motorcycle shall be manufactured of products which will successfully withstand discoloration due to exposure to sunlight or abnormal temperatures over an extended period of time.

(2) For purposes of this section, motorcycle does not include an auticycle.

(3) The owner or operator of any motor vehicle operated in violation of this section shall be guilty of a Class III misdemeanor.

Source: Laws 1933, c. 101, § 2, p. 413; Laws 1937, c. 145, § 2, p. 554; C.S.Supp.,1941, § 39-1195; R.S.1943, § 39-7,101; Laws 1977, LB 314, § 4; R.S.1943, (1988), § 39-6,155; Laws 1993, LB 370, § 359; Laws 2003, LB 238, § 7; Laws 2018, LB909, § 103. Effective date April 12, 2018.

(u) OCCUPANT PROTECTION SYSTEMS AND
THREE-POINT SAFETY BELT SYSTEMS

60-6,265 Occupant protection system and three-point safety belt system, defined.

For purposes of sections 60-6,266 to 60-6,273:

(1) Occupant protection system means a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a) restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and 571.210, as such standards existed on January 1, 2009, or, as a minimum standard, to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year; and

(2) Three-point safety belt system means a system utilizing a combination of a lap belt and a shoulder belt installed in a motor vehicle which restrains drivers and passengers.

Source: Laws 1993, LB 370, § 361; Laws 2004, LB 227, § 1; Laws 2006, LB 853, § 19; Laws 2007, LB239, § 6; Laws 2008, LB756, § 21; Laws 2009, LB331, § 11; Laws 2015, LB231, § 33; Laws 2018, LB42, § 1.

Operative date January 1, 2019.

60-6,266 Occupant protection system; 1973 year model and later motor vehicles; requirements; three-point safety belt system; violation; penalty.

(1) Every motor vehicle designated by the manufacturer as 1973 year model or later operated on any highway, road, or street in this state, except farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations, autocycles, motorcycles, motor-driven cycles, mopeds, and buses, shall be equipped with an occupant protection system of a type which:

(a) Meets the requirements of 49 C.F.R. 571.208, 571.209, and 571.210 as such regulations currently exist or as the regulations existed when the occupant protection system was originally installed by the manufacturer; or

(b) If the occupant protection system has been replaced, meets the requirements of 49 C.F.R. 571.208, 571.209, and 571.210 that applied to the originally installed occupant protection system or of a more recently issued version of such regulations. The purchaser of any such vehicle may designate the make or brand of or furnish such occupant protection system to be installed.

(2) Every autocycle shall be equipped with a three-point safety belt system.

(3) Any person selling a motor vehicle in this state not in compliance with this section shall be guilty of a Class V misdemeanor.

Source: Laws 1963, c. 214, § 1, p. 687; R.R.S.1943, § 39-7,123.05; Laws 1977, LB 41, § 31; Laws 1985, LB 496, § 3; Laws 1992, LB 958, § 8; R.S.Supp.,1992, § 39-6,171; Laws 1993, LB 370, § 362; Laws 2015, LB231, § 34.

60-6,267 Use of restraint system, occupant protection system, or three-point safety belt system; when; information and education program.

(1) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children up to eight years of age being transported by such vehicle (a) use a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration, as such standard existed on January 1, 2009, and which is correctly installed in such vehicle and (b) occupy a seat or seats, other than a front seat, if such seat or seats are so equipped with such passenger restraint system and such seat or seats are not already occupied by a child or children under eight years of age. In addition, all children up to two years of age shall use a rear-facing child passenger restraint system until the child outgrows the child passenger restraint system manufacturer's maximum allowable height or weight.

(2) Any person in Nebraska who drives any motor vehicle which has or is required to have an occupant protection system or a three-point safety belt system shall ensure that all children eight years of age and less than eighteen years of age being transported by such vehicle use an occupant protection system.

(3) Subsections (1) and (2) of this section apply to autocycles and to every motor vehicle which is equipped with an occupant protection system or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208, as such standard existed on January 1, 2009, except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with an occupant protection system.

(4) Whenever any licensed physician determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of subsection (1) or (2) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

(5) The drivers of authorized emergency vehicles shall not be subject to the requirements of subsection (1) or (2) of this section when operating such authorized emergency vehicles pursuant to their employment.

(6) A driver of a motor vehicle shall not be subject to the requirements of subsection (1) or (2) of this section if the motor vehicle is being operated in a parade or exhibition and the parade or exhibition is being conducted in accordance with applicable state law and local ordinances and resolutions.

(7) The Department of Transportation shall develop and implement an ongoing statewide public information and education program regarding the use of child passenger restraint systems and occupant protection systems and the availability of distribution and discount programs for child passenger restraint systems.

(8) All persons being transported by a motor vehicle operated by a holder of a provisional operator's permit or a school permit shall use such motor vehicle's occupant protection system or a three-point safety belt system.

(9) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1983, LB 306, § 2; Laws 1985, LB 259, § 1; Laws 1990, LB 958, § 1; Laws 1992, LB 958, § 3; R.S.Supp., 1992, § 39-6,103.01; Laws 1993, LB 370, § 363; Laws 2000, LB 410, § 1; Laws 2002, LB 1073, § 1; Laws 2004, LB 227, § 2; Laws 2006, LB 853, § 20; Laws 2007, LB239, § 7; Laws 2008, LB756, § 22; Laws 2009, LB219, § 1; Laws 2009, LB331, § 12; Laws 2011, LB67, § 1; Laws 2015, LB231, § 35; Laws 2017, LB339, § 219; Laws 2018, LB42, § 2; Laws 2018, LB909, § 104.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB42, section 2, with LB909, section 104, to reflect all amendments.

Note: Changes made by LB909 became effective April 12, 2018. Changes made by LB42 became operative January 1, 2019.

60-6,268 Use of restraint system or occupant protection system; violations; penalty; enforcement; when.

(1) A person violating any provision of subsection (1) or (2) of section 60-6,267 shall be guilty of an infraction as defined in section 29-431 and shall be fined twenty-five dollars for each violation. The failure to provide a child restraint system for more than one child in the same vehicle at the same time, as required in such subsection, shall not be treated as a separate offense.

(2) Enforcement of subsection (2) or (8) of section 60-6,267 shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation or some other offense unless the violation involves a person under the age of eighteen years riding in or on any

portion of the vehicle not designed or intended for the use of passengers when the vehicle is in motion.

Source: Laws 1983, LB 306, § 3; R.S.1943, (1988), § 39-6,103.02; Laws 1993, LB 370, § 364; Laws 2000, LB 410, § 2; Laws 2002, LB 1073, § 2; Laws 2004, LB 227, § 3; Laws 2011, LB67, § 2.

60-6,270 Occupant protection system; three-point safety belt system; use required; when; exceptions.

(1) Except as provided in subsection (2) or (3) of this section, no driver shall operate a motor vehicle upon a highway or street in this state unless the driver and each front-seat occupant in the vehicle are wearing occupant protection systems and all occupant protection systems worn are properly adjusted and fastened.

(2) Except as otherwise provided in subsection (3) of this section, no driver shall operate an autocycle upon a highway or street of this state unless the driver is wearing a three-point safety belt system and it is properly adjusted and fastened.

(3) The following persons shall not be required to wear an occupant protection system or a three-point safety belt system:

(a) A person who possesses written verification from a physician that the person is unable to wear an occupant protection system or a three-point safety belt system for medical reasons;

(b) A rural letter carrier of the United States Postal Service while performing his or her duties as a rural letter carrier between the first and last delivery points; and

(c) A member of an emergency medical service while involved in patient care.

(4) For purposes of this section, motor vehicle means a vehicle required by section 60-6,266 to be equipped with an occupant protection system or a three-point safety belt system.

Source: Laws 1985, LB 496, § 6; Laws 1992, LB 958, § 6; R.S.Supp.,1992, § 39-6,103.07; Laws 1993, LB 370, § 366; Laws 1993, LB 575, § 23; Laws 1997, LB 138, § 41; Laws 2015, LB231, § 36.

60-6,272 Occupant protection system; three-point safety belt system; violation; penalty.

Any person who violates section 60-6,270 shall be guilty of a traffic infraction and shall be fined twenty-five dollars, but no court costs shall be assessed against him or her nor shall any points be assessed against the driving record of such person. Regardless of the number of persons in such vehicle not wearing an occupant protection system or a three-point safety belt system pursuant to such section, only one violation shall be assessed against the driver of such motor vehicle for each time the motor vehicle is stopped and a violation of such section is found.

Source: Laws 1985, LB 496, § 5; Laws 1992, LB 958, § 5; R.S.Supp.,1992, § 39-6,103.06; Laws 1993, LB 370, § 368; Laws 1993, LB 575, § 22; Laws 2015, LB231, § 37.

60-6,273 Occupant protection system; three-point safety belt system; violation; evidence; when admissible.

Evidence that a person was not wearing an occupant protection system or a three-point safety belt system at the time he or she was injured shall not be admissible in regard to the issue of liability or proximate cause but may be admissible as evidence concerning mitigation of damages, except that it shall not reduce recovery for damages by more than five percent.

Source: Laws 1985, LB 496, § 7; Laws 1992, LB 958, § 7; R.S.Supp.,1992, § 39-6,103.08; Laws 1993, LB 370, § 369; Laws 2015, LB231, § 38.

(w) HELMETS

60-6,279 Protective helmets; required; when.

(1) A person shall not operate or be a passenger in an autocycle described in subsection (2) of this section, on a motorcycle other than an autocycle, or on a moped on any highway in this state unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets.

(2) This section applies to an autocycle that has a seating area that is not completely enclosed.

Source: Laws 1988, LB 428, § 2; R.S.1943, (1988), § 39-6,211; Laws 1993, LB 370, § 375; Laws 2018, LB909, § 105.
Effective date April 12, 2018.

(y) SIZE, WEIGHT, AND LOAD

60-6,288 Vehicles; width limit; exceptions; conditions; Director-State Engineer; powers.

(1) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any portion of the National System of Interstate and Defense Highways. The Director-State Engineer shall adopt and promulgate rules and regulations, consistent with federal requirements, designating safety devices which shall be excluded in determining vehicle width.

(2) No vehicle which exceeds a total outside width of one hundred two inches, including any load but excluding designated safety devices, shall be permitted on any highway which is not a portion of the National System of Interstate and Defense Highways, except that such prohibition shall not apply to:

(a) Farm equipment in temporary movement, during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with, in the normal course of farm operations;

(b) Combines eighteen feet or less in width, while in the normal course of farm operations and while being driven during daylight hours or during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(c) Combines in excess of eighteen feet in width, while in the normal course of farm operations, while being driven during daylight hours for distances of twenty-five miles or less on highways and while preceded by a well-lighted pilot vehicle or flagperson, except that such combines may be driven on highways while in the normal course of farm operations for distances of twenty-five miles or less and while preceded by a well-lighted pilot vehicle or flagperson during hours of darkness when the clearance light requirements of section 60-6,235 are fully complied with;

(d) Combines and vehicles used in transporting combines or other implements of husbandry, and only when transporting combines or other implements of husbandry, to be engaged in harvesting or other agricultural work, while being transported into or through the state during daylight hours, when the total width including the width of the combine or other implement of husbandry being transported does not exceed fifteen feet, except that vehicles used in transporting combines or other implements of husbandry may, when necessary to the harvesting operation or other agricultural work, travel unloaded for distances not to exceed twenty-five miles, while the combine or other implement of husbandry to be transported is engaged in a harvesting operation or other agricultural work;

(e) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment, including portable livestock buildings not exceeding fourteen feet in width, or implements of husbandry during daylight hours;

(f) Livestock forage vehicles loaded or unloaded that comply with subsection (2) of section 60-6,305;

(g) During daylight hours only, vehicles en route to pick up, delivering, or returning unloaded from delivery of baled livestock forage which, including the load if any, may be twelve feet in width;

(h) Mobile homes or prefabricated livestock buildings not exceeding sixteen feet in width and with an outside tire width dimension not exceeding one hundred twenty inches moving during daylight hours;

(i) Self-propelled specialized mobile equipment with a fixed load when:

(i) The self-propelled specialized mobile equipment will be transported on a state highway, excluding any portion of the National System of Interstate and Defense Highways, on a city street, or on a road within the corporate limits of a city;

(ii) The city in which the self-propelled specialized mobile equipment is intended to be transported has authorized a permit pursuant to section 60-6,298 for the transportation of the self-propelled specialized mobile equipment, specifying the route to be used and the hours during which the self-propelled specialized mobile equipment can be transported, except that no permit shall be issued by a city for travel on a state highway containing a bridge or structure which is structurally inadequate to carry the self-propelled specialized mobile equipment as determined by the Department of Transportation;

(iii) The self-propelled specialized mobile equipment's gross weight does not exceed ninety-four thousand pounds if the self-propelled specialized mobile equipment has four axles or seventy-two thousand pounds if the self-propelled specialized mobile equipment has three axles; and

(iv) If the self-propelled specialized mobile equipment has four axles, the maximum weight on each set of tandem axles does not exceed forty-seven thousand pounds, or if the self-propelled specialized mobile equipment has three axles, the maximum weight on the front axle does not exceed twenty-five thousand pounds and the total maximum weight on the rear tandem axles does not exceed forty-seven thousand pounds;

(j) Vehicles which have been issued a permit pursuant to section 60-6,299; or

(k) A motor home or travel trailer, as those terms are defined in section 71-4603, which may exceed one hundred and two inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For purposes of this subdivision, the term appurtenance includes (i) an awning and its support hardware and (ii) any appendage that is intended to be an integral part of a motor home or travel trailer and that is installed by the manufacturer or dealer. The term appurtenance does not include any item that is temporarily affixed or attached to the exterior of the motor home or travel trailer for purposes of transporting the vehicular unit from one location to another. Appurtenances shall not be considered in calculating the gross trailer area as defined in section 71-4603.

(3) The Director-State Engineer, with respect to highways under his or her jurisdiction, may designate certain highways upon which vehicles of no more than ninety-six inches in width may be permitted to travel. Highways so designated shall be limited to one or more of the following:

(a) Highways with traffic lanes of ten feet or less;

(b) Highways upon which are located narrow bridges; and

(c) Highways which because of sight distance, surfacing, unusual curves, topographic conditions, or other unusual circumstances would not in the opinion of the Director-State Engineer safely accommodate vehicles of more than ninety-six inches in width.

Source: Laws 1933, c. 105, § 1, p. 425; C.S.Supp.,1941, § 39-1032; R.S.1943, § 39-719; Laws 1957, c. 156, § 1, p. 563; Laws 1961, c. 182, § 1, p. 544; Laws 1963, c. 219, § 1, p. 691; Laws 1963, c. 220, § 1, p. 693; Laws 1963, c. 221, § 1, p. 697; Laws 1965, c. 212, § 1, p. 621; Laws 1969, c. 308, § 2, p. 1101; Laws 1973, LB 491, § 1; R.S.Supp.,1973, § 39-719; Laws 1974, LB 593, § 1; Laws 1975, LB 306, § 1; Laws 1977, LB 427, § 2; Laws 1978, LB 576, § 1; Laws 1978, LB 750, § 2; Laws 1980, LB 284, § 1; Laws 1981, LB 285, § 2; Laws 1982, LB 417, § 1; Laws 1983, LB 244, § 1; Laws 1985, LB 553, § 3; Laws 1990, LB 369, § 3; R.S.Supp.,1992, § 39-6,177; Laws 1993, LB 370, § 384; Laws 1993, LB 413, § 1; Laws 1993, LB 575, § 35; Laws 1997, LB 226, § 1; Laws 1999, LB 704, § 47; Laws 2000, LB 1361, § 5; Laws 2001, LB 376, § 3; Laws 2008, LB756, § 23; Laws 2014, LB1039, § 3; Laws 2017, LB339, § 220.

Cross References

Weighing stations, see sections 60-1301 to 60-1309.

60-6,288.01 Person moving certain buildings or objects; notice required; contents; violation; penalty.

(1) Any person moving a building or an object that, in combination with the transporting vehicle, is over fifteen feet six inches high or wider than the roadway on a county or township road shall notify the local authority and the electric utility responsible for the infrastructure, including poles, wires, substations, and underground residential distribution cable boxes adjacent to or crossing the roadway along the route over which such building or object is being transported. Notification shall be made at least ten days prior to the move. Notification shall specifically describe the transporting vehicle, the width, length, height, and weight of the building or object to be moved, the route to be used, and the date and hours during which the building or object will be transported. Complying with the notification requirement of this section does not exempt the person from complying with any other federal, state, or local authority permit or notification requirements.

(2) Proof of the notification required under subsection (1) of this section must be carried by any person moving a building or an object as described in this section.

(3) Any person who fails to comply with the notification requirements of this section shall be guilty of a Class II misdemeanor.

Source: Laws 2011, LB164, § 2; Laws 2016, LB973, § 3.

60-6,289 Vehicles; height; limit; height of structure; damages.

(1) No vehicle unladen or with load shall exceed a height of fourteen feet, six inches, except:

(a) Combines or vehicles used in transporting combines, to be engaged in harvesting within or without the state, moving into or through the state during daylight hours when the overall height does not exceed fifteen feet, six inches;

(b) Livestock forage vehicles with or without load that comply with subsection (2) of section 60-6,305;

(c) Farm equipment or implements of husbandry being driven, picked up, or delivered during daylight hours by farm equipment dealers or their representatives as authorized under section 60-6,382 shall not exceed fifteen feet, six inches;

(d) Self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met;

(e) Vehicles which have been issued a permit pursuant to section 60-6,299; or

(f) Vehicles with a baled livestock forage load that comply with subsection (4) of section 60-6,305 when the overall height does not exceed fifteen feet, six inches.

(2) No person shall be required to raise, alter, construct, or reconstruct any underpass, bridge, wire, or other structure to permit the passage of any vehicle having a height, unladen or with load, in excess of twelve feet, six inches. The owners, lessees, and operators, jointly and severally, of vehicles exceeding twelve feet, six inches, in height shall assume the risk of loss to the vehicle or its

load and shall be liable for any damages that result to overhead obstructions from operation of a vehicle exceeding twelve feet, six inches, in height.

Source: Laws 1933, c. 105, § 2, p. 425; C.S.Supp.,1941, § 39-1033; Laws 1943, c. 133, § 1, p. 446; R.S.1943, § 39-720; Laws 1951, c. 117, § 1, p. 526; Laws 1957, c. 156, § 2, p. 563; Laws 1969, c. 308, § 3, p. 1102; Laws 1973, LB 491, § 2; R.S.Supp.,1973, § 39-720; Laws 1974, LB 593, § 2; Laws 1977, LB 211, § 3; Laws 1978, LB 750, § 3; Laws 1980, LB 284, § 2; Laws 1985, LB 553, § 4; R.S.1943, (1988), § 39-6,178; Laws 1993, LB 370, § 385; Laws 2000, LB 1361, § 6; Laws 2008, LB756, § 24; Laws 2010, LB820, § 1; Laws 2014, LB1039, § 4.

60-6,290 Vehicles; length; limit; exceptions.

(1)(a) No vehicle shall exceed a length of forty feet, extreme overall dimensions, inclusive of front and rear bumpers including load, except that:

(i) A bus or a motor home, as defined in section 71-4603, may exceed the forty-foot limitation but shall not exceed a length of forty-five feet;

(ii) A truck-tractor may exceed the forty-foot limitation;

(iii) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation;

(iv) A semitrailer operating in a truck-tractor single semitrailer combination, which semitrailer was not actually and lawfully operating in the State of Nebraska on December 1, 1982, may exceed the forty-foot limitation but shall not exceed a length of fifty-three feet including load;

(v) A semitrailer operating in a truck-tractor single semitrailer combination, while transporting baled livestock forage, may exceed the forty-foot limitation but shall not exceed a length of fifty-nine feet six inches including load; and

(vi) An articulated bus vehicle operated by a transit authority created pursuant to section 14-1803 may exceed the forty-foot limitation. For purposes of this subdivision (vi), an articulated bus vehicle shall not exceed sixty-five feet in length.

(b) No combination of vehicles shall exceed a length of sixty-five feet, extreme overall dimensions, inclusive of front and rear bumpers and including load, except:

(i) One truck and one trailer, loaded or unloaded, used in transporting implements of husbandry to be engaged in harvesting, while being transported into or through the state during daylight hours if the total length does not exceed seventy-five feet including load;

(ii) A truck-tractor single semitrailer combination;

(iii) A truck-tractor semitrailer trailer combination, but the semitrailer trailer portion of such combination shall not exceed sixty-five feet inclusive of connective devices; and

(iv) A driveaway saddlemount vehicle transporter combination and driveaway saddlemount with fullmount vehicle transporter combination, but the total overall length shall not exceed ninety-seven feet.

(c) A truck shall be construed to be one vehicle for the purpose of determining length.

(d) A trailer shall be construed to be one vehicle for the purpose of determining length.

(2) Subsection (1) of this section shall not apply to:

(a) Extra-long vehicles which have been issued a permit pursuant to section 60-6,292;

(b) Vehicles which have been issued a permit pursuant to section 60-6,299;

(c) The temporary moving of farm machinery during daylight hours in the normal course of farm operations;

(d) The movement of unbaled livestock forage vehicles, loaded or unloaded;

(e) The movement of public utility or other construction and maintenance material and equipment at any time;

(f) Farm equipment dealers or their representatives as authorized under section 60-6,382 driving, delivering, or picking up farm equipment or implements of husbandry within the county in which the dealer maintains his or her place of business, or in any adjoining county or counties, and return;

(g) The overhang of any motor vehicle being hauled upon any lawful combination of vehicles, but such overhang shall not exceed the distance from the rear axle of the hauled motor vehicle to the closest bumper thereof;

(h) The overhang of a combine to be engaged in harvesting, while being transported into or through the state driven during daylight hours by a truck-tractor semitrailer combination, but the length of the semitrailer, including overhang, shall not exceed sixty-three feet and the maximum semitrailer length shall not exceed fifty-three feet;

(i) Any self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met; or

(j) One truck-tractor two trailer combination or one truck-tractor semitrailer trailer combination used in transporting equipment utilized by custom harvesters under contract to agricultural producers to harvest wheat, soybeans, or milo during the months of April through November but the length of the property-carrying units, excluding load, shall not exceed eighty-one feet six inches.

(3) The length limitations of this section shall be exclusive of safety and energy conservation devices such as rearview mirrors, turnsignal lights, marker lights, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors, and other devices necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded from the limitations of this section shall have by its design or use the capability to carry cargo.

Source: Laws 1933, c. 102, § 1, p. 414; Laws 1933, c. 105, § 3, p. 425; Laws 1935, c. 86, § 1, p. 277; Laws 1939, c. 50, § 1, p. 217; C.S.Supp.,1941, § 39-1034; R.S.1943, § 39-721; Laws 1947, c. 146, § 1, p. 402; Laws 1951, c. 117, § 2, p. 527; Laws 1953, c. 133, § 1, p. 413; Laws 1957, c. 156, § 3, p. 564; Laws 1959, c. 164, § 1, p. 599; Laws 1959, c. 165, § 1, p. 603; Laws 1961, c. 309, § 1, p. 980; Laws 1963, c. 220, § 2, p. 694; Laws 1963, c. 222, § 1, p. 699; Laws 1963, c. 223, § 1, p. 701; Laws 1965, c. 213, § 1, p. 625; Laws 1971, LB 530, § 1; C.S.Supp.,1972,

§ 39-721; Laws 1974, LB 920, § 2; Laws 1979, LB 112, § 1; Laws 1980, LB 284, § 3; Laws 1980, LB 785, § 2; Laws 1982, LB 383, § 1; Laws 1983, LB 411, § 1; Laws 1984, LB 983, § 3; Laws 1985, LB 553, § 5; Laws 1987, LB 224, § 13; R.S.1943, (1988), § 39-6,179; Laws 1993, LB 370, § 386; Laws 1993, LB 575, § 36; Laws 1996, LB 1104, § 3; Laws 1997, LB 720, § 18; Laws 2000, LB 1361, § 7; Laws 2001, LB 376, § 4; Laws 2006, LB 853, § 21; Laws 2008, LB756, § 25; Laws 2012, LB740, § 1; Laws 2014, LB1039, § 5; Laws 2016, LB735, § 1.

60-6,291 Violations; penalty.

Except as provided in subsection (3) of section 60-6,288.01, any person who violates any provision of sections 60-6,288 to 60-6,290 or who drives, moves, causes, or knowingly permits to be moved on any highway any vehicle or vehicles which exceed the limitations as to width, length, or height as provided in such sections for which a penalty is not elsewhere provided shall be guilty of a Class III misdemeanor.

Source: Laws 1933, c. 105, § 8, p. 431; Laws 1941, c. 76, § 1, p. 312; C.S.Supp.,1941, § 39-1037; R.S.1943, § 39-725; Laws 1949, c. 115, § 1, p. 309; Laws 1953, c. 134, § 6, p. 421; Laws 1955, c. 151, § 2, p. 449; R.R.S.1943, § 39-725; Laws 1974, LB 593, § 4; Laws 1977, LB 41, § 35; R.S.1943, (1988), § 39-6,188; Laws 1993, LB 370, § 387; Laws 1993, LB 121, § 207; Laws 1994, LB 884, § 81; Laws 2011, LB164, § 3; Laws 2016, LB973, § 4.

60-6,292 Extra-long vehicle combinations; permit; conditions; fee; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for the use of extra-long vehicle combinations. Such permits shall allow the extra-long vehicle combinations to operate only on the National System of Interstate and Defense Highways and only if such vehicles are empty and are being delivered for the manufacturer or retailer, except that a highway located not more than six miles from the National System of Interstate and Defense Highways may also be designated in such permits if it is determined by the Director-State Engineer that such designation is necessary for the permitholder to have access to the National System of Interstate and Defense Highways. An annual permit for such use may be issued to each qualified carrier company or individual. The carrier company or individual shall maintain a copy of such annual permit in each truck-tractor operating as a part of an extra-long vehicle combination. The fee for such permit shall be two hundred fifty dollars per year.

(2) The permit shall allow operation of the following extra-long vehicle combinations of not more than three cargo units and not fewer than six axles nor more than nine axles:

(a) A truck-tractor, a semitrailer, and two trailers having an overall combination length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths;

(b) A truck-tractor, semitrailer, and single trailer having an overall length of not more than one hundred five feet. Semitrailers and trailers shall be of approximately equal lengths; and

(c) A truck-tractor, semitrailer, or single trailer, one trailer of which is not more than forty-eight feet long, the other trailer of which is not more than twenty-eight feet long nor less than twenty-six feet long, and the entire combination of which is not more than ninety-five feet long. The shorter trailer shall be operated as the rear trailer.

For purposes of this subsection, a semitrailer used with a converter dolly shall be considered a trailer.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits, including, but not limited to, selection of carriers, driver qualifications, equipment selection, hours of operations, weather conditions, road conditions, and safety considerations.

(4) Any person who violates this section shall be guilty of a Class IV misdemeanor.

Source: Laws 1984, LB 983, § 1; R.S.1943, (1988), § 39-6,179.01; Laws 1993, LB 370, § 388; Laws 2017, LB339, § 221.

60-6,294 Vehicles; weight limit; further restrictions by Department of Transportation, when authorized; axle load; load limit on bridges; overloading; liability.

(1) Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles shall comply with subsections (2) and (3) of this section except as provided in sections 60-6,294.01, 60-6,297, and 60-6,383. The limitations imposed by this section shall be supplemental to all other provisions imposing limitations upon the size and weight of vehicles.

(2) No wheel of a vehicle or trailer equipped with pneumatic or solid rubber tires shall carry a gross load in excess of ten thousand pounds on any highway nor shall any axle carry a gross load in excess of twenty thousand pounds on any highway. An axle load shall be defined as the total load transmitted to the highway by all wheels the centers of which may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(3) No group of two or more consecutive axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, except that the maximum load carried on any group of two or more axles shall not exceed eighty thousand pounds on the National System of Interstate and Defense Highways unless the Director-State Engineer pursuant to section 60-6,295 authorizes a greater weight.

| Distance in feet between the extremes of any group of two or more consecutive axles | Maximum load in pounds carried on any group of two or more consecutive axles | | | | | |
|---|--|----------------|---------------|---------------|--------------|----------------|
| | Two Axles | Three Axles | Four Axles | Five Axles | Six Axles | Seven Axles |
| 4 | 34,000 | | | | | |
| 5 | 34,000 | | | | | |
| 6 | 34,000 | | | | | |
| 7 | 34,000 | | | | | |

NEBRASKA RULES OF THE ROAD

§ 60-6,294

| | | | | | | |
|----|--------|--------|--------|--------|--------|--------|
| 8 | 34,000 | 42,000 | | | | |
| 9 | 39,000 | 42,500 | | | | |
| 10 | 40,000 | 43,500 | | | | |
| 11 | | 44,000 | | | | |
| 12 | | 45,000 | 50,000 | | | |
| 13 | | 45,500 | 50,500 | | | |
| 14 | | 46,500 | 51,500 | | | |
| 15 | | 47,000 | 52,000 | | | |
| 16 | | 48,000 | 52,500 | 58,000 | | |
| 17 | | 48,500 | 53,500 | 58,500 | | |
| 18 | | 49,500 | 54,000 | 59,000 | | |
| 19 | | 50,000 | 54,500 | 60,000 | | |
| 20 | | 51,000 | 55,500 | 60,500 | | |
| 21 | | 51,500 | 56,000 | 61,000 | | |
| 22 | | 52,500 | 56,500 | 61,500 | | |
| 23 | | 53,000 | 57,500 | 62,500 | | |
| 24 | | 54,000 | 58,000 | 63,000 | | |
| 25 | | 54,500 | 58,500 | 63,500 | 69,000 | |
| 26 | | 55,500 | 59,500 | 64,000 | 69,500 | |
| 27 | | 56,000 | 60,000 | 65,000 | 70,000 | |
| 28 | | 57,000 | 60,500 | 65,500 | 71,000 | |
| 29 | | 57,500 | 61,500 | 66,000 | 71,500 | |
| 30 | | 58,500 | 62,000 | 66,500 | 72,000 | |
| 31 | | 59,000 | 62,500 | 67,500 | 72,500 | |
| 32 | | 60,000 | 63,500 | 68,000 | 73,000 | |
| 33 | | | 64,000 | 68,500 | 74,000 | |
| 34 | | | 64,500 | 69,000 | 74,500 | |
| 35 | | | 65,500 | 70,000 | 75,000 | |
| 36 | | | 66,000 | 70,500 | 75,500 | |
| 37 | | | 66,500 | 71,000 | 76,000 | 81,500 |
| 38 | | | 67,500 | 72,000 | 77,000 | 82,000 |
| 39 | | | 68,000 | 72,500 | 77,500 | 82,500 |
| 40 | | | 68,500 | 73,000 | 78,000 | 83,500 |
| 41 | | | 69,500 | 73,500 | 78,500 | 84,000 |
| 42 | | | 70,000 | 74,000 | 79,000 | 84,500 |
| 43 | | | 70,500 | 75,000 | 80,000 | 85,000 |
| 44 | | | 71,500 | 75,500 | 80,500 | 85,500 |
| 45 | | | 72,000 | 76,000 | 81,000 | 86,000 |
| 46 | | | 72,500 | 76,500 | 81,500 | 87,000 |
| 47 | | | 73,500 | 77,500 | 82,000 | 87,500 |
| 48 | | | 74,000 | 78,000 | 83,000 | 88,000 |
| 49 | | | 74,500 | 78,500 | 83,500 | 88,500 |
| 50 | | | 75,500 | 79,000 | 84,000 | 89,000 |
| 51 | | | 76,000 | 80,000 | 84,500 | 89,500 |
| 52 | | | 76,500 | 80,500 | 85,000 | 90,500 |
| 53 | | | 77,500 | 81,000 | 86,000 | 91,000 |
| 54 | | | 78,000 | 81,500 | 86,500 | 91,500 |
| 55 | | | 78,500 | 82,500 | 87,000 | 92,000 |
| 56 | | | 79,500 | 83,000 | 87,500 | 92,500 |
| 57 | | | 80,000 | 83,500 | 88,000 | 93,000 |
| 58 | | | | 84,000 | 89,000 | 94,000 |
| 59 | | | | 85,000 | 89,500 | 94,500 |
| 60 | | | | 85,500 | 90,000 | 95,000 |

(4) The distance between axles shall be measured to the nearest foot. When a fraction is exactly one-half foot, the next larger whole number shall be used, except that:

(a) Any group of three axles shall be restricted to a maximum load of thirty-four thousand pounds unless the distance between the extremes of the first and third axles is at least ninety-six inches in fact; and

(b) The maximum gross load on any group of two axles, the distance between the extremes of which is more than eight feet but less than eight feet six inches, shall be thirty-eight thousand pounds.

(5) The limitations of subsections (2) through (4) of this section shall apply as stated to all main, rural, and intercity highways but shall not be construed as inhibiting heavier axle loads in metropolitan areas, except on the National System of Interstate and Defense Highways, if such loads are not prohibited by city ordinance.

(6) The weight limitations of wheel and axle loads as defined in subsections (2) through (4) of this section shall be restricted to the extent deemed necessary by the Department of Transportation for a reasonable period when road subgrades or pavements are weak or are materially weakened by climatic conditions.

(7) Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each when the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six, thirty-seven, or thirty-eight feet except as provided in section 60-6,297. Such vehicles shall be subject to section 60-6,301.

(8) If any vehicle crosses a bridge with a total gross load in excess of the posted capacity of such bridge and as a result of such crossing any damage results to the bridge, the owner of such vehicle shall be responsible for all of such damage.

(9) Vehicles equipped with a greater number of axles than provided in the table in subsection (3) of this section shall be legal if they do not exceed the maximum load upon any wheel or axle, the maximum load upon any group of two or more consecutive axles, and the total gross weight, or any of such weights as provided in subsections (2) and (3) of this section.

(10) Subsections (1) through (9) of this section shall not apply to a vehicle which has been issued a permit pursuant to section 60-6,299, self-propelled specialized mobile equipment with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met, or an emergency vehicle when the requirements of subdivision (1)(a)(v) of section 60-6,298 are met.

(11) Any two consecutive axles the centers of which are more than forty inches and not more than ninety-six inches apart, measured to the nearest inch between any two adjacent axles in the series, shall be defined as tandem axles, and the gross weight transmitted to the road surface through such series shall not exceed thirty-four thousand pounds. No axle of the series shall exceed the maximum weight permitted under this section for a single axle.

(12) Dummy axles shall be disregarded in determining the lawful weight of a vehicle or vehicle combination for operation on the highway. Dummy axle shall mean an axle attached to a vehicle or vehicle combination in a manner so that it does not articulate or substantially equalize the load and does not carry at least the lesser of eight thousand pounds or eight percent of the gross weight of the vehicle or vehicle combination.

(13) The maximum gross weight limit and the axle weight limit for any vehicle or combination of vehicles equipped with idle reduction technology may

be increased by an amount necessary to compensate for the additional weight of the idle reduction technology as provided in 23 U.S.C. 127(a)(12), as such section existed on October 1, 2012. The additional amount of weight allowed by this subsection shall not exceed five hundred fifty pounds and shall not be construed to be in addition to the five-percent-in-excess-of-maximum-load provision of subdivision (1) of section 60-6,301.

(14) The maximum gross weight for any vehicle or combination of vehicles operated by an engine fueled primarily by natural gas may exceed the gross weight limitations provided in subsection (3) of this section, and as provided in 23 U.S.C. 127(s), as such section existed on January 1, 2018, in an amount that:

(a) Is equal to the difference, up to a maximum of two thousand pounds, between the weight of the natural gas tank and fueling system carried by such vehicle, and the weight of a comparable diesel tank and fueling system; and

(b) Does not exceed eighty-two thousand pounds on the National System of Interstate and Defense Highways.

Source: Laws 1933, c. 105, § 4, p. 426; Laws 1939, c. 50, § 2, p. 218; C.S.Supp.,1941, § 39-1035; Laws 1943, c. 133, § 2, p. 446; R.S. 1943, § 39-722; Laws 1945, c. 91, § 1, p. 312; Laws 1947, c. 147, § 1, p. 403; Laws 1953, c. 131, § 9, p. 404; Laws 1953, c. 134, § 1, p. 416; Laws 1959, c. 164, § 2, p. 600; Laws 1969, c. 318, § 1, p. 1150; C.S.Supp.,1972, § 39-722; Laws 1980, LB 284, § 4; Laws 1982, LB 383, § 2; Laws 1984, LB 726, § 1; Laws 1985, LB 553, § 6; Laws 1987, LB 132, § 1; Laws 1990, LB 369, § 4; R.S.Supp.,1992, § 39-6,180; Laws 1993, LB 370, § 390; Laws 1995, LB 186, § 1; Laws 1996, LB 1104, § 4; Laws 2000, LB 1361, § 8; Laws 2005, LB 82, § 3; Laws 2008, LB756, § 26; Laws 2016, LB977, § 25; Laws 2017, LB339, § 222; Laws 2018, LB909, § 106.

Effective date April 12, 2018.

Cross References

Special load restrictions, rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103.
Weighing stations, see sections 60-1301 to 60-1309.

60-6,297 Disabled vehicles; length, load, width, height limitations; exception; special single trip permit; liability.

(1) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles disabled or wrecked on a highway or right-of-way when the vehicle or combination of vehicles is towed to a place of secure safekeeping by any wrecker or tow truck performing a wrecker or towing service.

(2) Subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply to a single vehicle that is disabled or wrecked when the single vehicle is towed by any wrecker or tow truck to a place for repair or to a point of storage.

(3)(a) Section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294 shall not apply to a vehicle or combination of vehicles permitted by the Department of Transportation for overwidth, overheight, overlength, or overweight operation that is disabled or wrecked on a highway or right-of-way when the vehicle or combination of vehicles is towed if the vehicle or combination of vehicles is

towed by any wrecker or tow truck performing a wrecker or towing service to the first or nearest place of secure safekeeping off the traveled portion of the highway that can accommodate the parking of such disabled vehicle or combination of vehicles.

(b) After the vehicle or combination of vehicles has been towed to a place of secure safekeeping, such vehicle or combination of vehicles shall then be operated in compliance with section 60-6,288, subsection (1) of section 60-6,289, subdivision (1)(b) of section 60-6,290, and subsections (2) and (3) of section 60-6,294, or the vehicle or combination of vehicles shall acquire a special single trip permit from the department for the movement of the overwidth, overheight, overlength, or overweight vehicle or combination of vehicles beyond the first or nearest place of secure safekeeping to its intended destination.

(4) The owners, lessees, and operators of any wrecker or tow truck exceeding the width, height, length, or weight restrictions while towing a disabled or wrecked vehicle or combination of vehicles shall be jointly and severally liable for any injury or damages that result from the operation of the wrecker or tow truck while exceeding such restrictions.

(5) If a disabled or wrecked vehicle or combination of vehicles is towed, the wrecker or tow truck shall be connected with the air brakes and brake lights of the towed vehicle or combination of vehicles.

(6) For purposes of this section:

(a) Place of secure safekeeping means a location off the traveled portion of the highway that can accommodate the parking of the disabled or wrecked vehicle or combination of vehicles in order for the vehicle or combination of vehicles to be repaired or moved to a point of storage; and

(b) Wrecker or tow truck means an emergency commercial vehicle equipped, designed, and used to assist or render aid and transport or tow a disabled vehicle or combination of vehicles from a highway or right-of-way to a place of secure safekeeping.

Source: Laws 1982, LB 383, § 3; R.S.1943, (1988), § 39-6,180.02; Laws 1993, LB 370, § 393; Laws 2003, LB 137, § 1; Laws 2005, LB 82, § 4; Laws 2011, LB35, § 1; Laws 2017, LB339, § 223.

60-6,298 Vehicles; size; weight; load; overweight; special, continuing, or continuous permit; issuance discretionary; conditions; penalty; continuing permit; fees.

(1)(a) The Department of Transportation or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special, continuing, or continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, except that any combination with two or more cargo-carrying units, not including the truck-tractor, also known as a longer combination vehicle, may only operate for a distance up to seventy miles loaded up to fifteen percent greater than the maximum weight specified by law, or up to ten percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. The distance limitation may be waived for vehicles when carrying dry beans from the field where harvested to storage or market when dry beans are not normally stored, purchased, or used within the permittee's local area and must be transported more than one hundred twenty miles to an available marketing or storage destination. No permit shall authorize a weight greater than twenty thousand pounds on any single axle;

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays;

(iv) To operate one or more recreational vehicles, as defined in section 71-4603, exceeding the maximum width specified by law if movement of the recreational vehicles is prior to retail sale and the recreational vehicles comply with subdivision (2)(k) of section 60-6,288;

(v) To operate an emergency vehicle for purposes of sale, demonstration, exhibit, or delivery, if the applicant or his or her designee is a manufacturer or sales agent of the emergency vehicle. No permit shall be issued for an emergency vehicle which weighs over sixty thousand pounds on the tandem axle; or

(vi) To transport during daylight hours divisible loads of livestock forage in bale form which do not exceed twelve feet in width, except that the permit shall not allow transport on holidays.

(b) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous or continuing operation. The permit shall

include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuous or continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed twenty-five dollars, except that:

(a) The fee for a continuous or continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of this section shall be twenty-five dollars. Permits issued pursuant to such subdivision shall be valid for thirty days and shall be renewable four times for a total number of days not to exceed one hundred fifty days per calendar year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-3,147 or 60-3,198 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued.

Source: Laws 1957, c. 156, § 4, p. 565; Laws 1961, c. 183, § 1, p. 546; Laws 1963, c. 220, § 3, p. 695; Laws 1963, c. 226, § 1, p. 708; Laws 1965, c. 214, § 1, p. 627; Laws 1967, c. 235, § 1, p. 627; Laws 1972, LB 1337, § 1; Laws 1973, LB 152, § 1; R.S.Supp.,1973, § 39-722.01; Laws 1975, LB 306, § 2; Laws 1979, LB 287, § 1; Laws 1980, LB 842, § 1; Laws 1981, LB 285, § 3; Laws 1986, LB 122, § 1; Laws 1986, LB 833, § 1; R.S.1943, (1988), § 39-6,181; Laws 1993, LB 176, § 1; Laws 1993, LB 370, § 394; Laws 1994, LB 1061, § 4; Laws 1995, LB 467, § 15; Laws 1996, LB 1306, § 2; Laws 1997, LB 122, § 1; Laws 1997, LB 261, § 1; Laws 2000, LB 1361, § 9; Laws 2001, LB 376, § 5; Laws 2003, LB 563, § 33; Laws 2005, LB 82, § 5; Laws 2005, LB 274, § 246; Laws 2010, LB820, § 2; Laws 2011, LB35, § 2; Laws 2012, LB841, § 1; Laws 2012, LB997, § 4; Laws 2013, LB117, § 1; Laws 2017, LB339, § 224; Laws 2018, LB909, § 107.
Effective date April 12, 2018.

Cross References

Rules and regulations of Department of Transportation, adoption, penalty, see sections 39-102 and 39-103.

60-6,299 Permit to move building; limitations; application; Department of Transportation; rules and regulations; violation; penalty.

(1) The Department of Transportation may issue permits for vehicles moving a building or objects requiring specialized moving dollies. Such permits shall allow the vehicles transporting buildings or objects requiring specialized dollies to operate on highways under the jurisdiction of the department, excluding any portion of the National System of Interstate and Defense Highways. Such permit shall specify the maximum allowable width, length, height, and weight of the building to be transported, the route to be used, and the hours during which such building or object may be transported. Such permit shall clearly state that the applicant is not authorized to manipulate overhead high voltage lines or conductors or other such components, including electric utility poles, and that the applicant shall be guilty of a Class II misdemeanor for any violation of this section or of the notification requirements of section 60-6,288.01. Any vehicle moving a building or object requiring specialized moving dollies shall be escorted by another vehicle or vehicles in the manner determined by the department. Such vehicles shall travel at a speed which is not in excess of five miles per hour when carrying loads which are in excess of

the maximum gross weight specified by law by more than twenty-five percent. The permit shall not be issued for travel on a state highway containing a bridge or structure which is structurally inadequate to carry such building or object as determined by the department. The department may prescribe conditions of operation of such vehicle when necessary to assure against damage to the road foundations, surfaces, or structures and require such security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(2) The application for any such permit shall (a) specifically describe the vehicle, (b) specifically describe the load to be moved, (c) include a signed affirmation under oath that, for any load sixteen feet high or higher, the applicant has contacted any and all electric utilities that have high voltage conductors and infrastructure that cross over the roadway affected by the move and made arrangements with such electric utilities for the safe movement of the load under any high voltage conductors owned by such electric utilities, and (d) whenever possible, describe the particular highways for which the permit is requested. The company or individual shall maintain a copy of the permit in each vehicle moving a building or object requiring specialized moving dollies which shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. The fee for such permit shall be ten dollars.

(3) The department shall adopt and promulgate rules and regulations governing the issuance of the permits. Such rules and regulations shall include, but not be limited to, driver qualifications, equipment selection, hours of operation, weather conditions, road conditions, determination of any damage caused to highways or bridges, cutting or trimming of trees, removal or relocation of signs or other property of the state, raising or lowering of electric supply and communication lines, and such other safety considerations as the department deems necessary.

(4) Any person who violates the terms of a permit issued pursuant to this section or otherwise violates this section shall be guilty of a Class II misdemeanor.

Source: Laws 1985, LB 553, § 1; R.S.1943, (1988), § 39-6,181.01; Laws 1993, LB 370, § 395; Laws 2012, LB997, § 5; Laws 2016, LB973, § 5; Laws 2017, LB339, § 225.

60-6,300 Vehicles; excess load prohibited; exception; violation; penalty.

(1) It shall be unlawful to operate upon the public highways of this state any truck, truck-tractor, or trailer that weighs in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds, but this section shall not apply to any truck, truck-tractor, or trailer being operated under a special permit issued pursuant to section 60-6,298 if the vehicle is properly registered pursuant to such section.

(2)(a) Any person operating any truck, truck-tractor, or trailer in violation of this section shall be guilty of a traffic infraction and shall, upon conviction, be fined twenty-five dollars for each one thousand pounds or fraction thereof in excess of the weight allowed to be carried under this section with tolerance.

(b) In lieu of issuing a citation to an operator under subdivision (2)(a) of this section, the Superintendent of Law Enforcement and Public Safety may assess the owner of the vehicle a civil penalty for each violation of this section in an

amount equal to twenty-five dollars for each one thousand pounds or fraction thereof in excess of the gross weight for which the registration fee on such vehicle has been paid plus one thousand pounds. The superintendent shall issue an order imposing a penalty under this subdivision in the same manner as an order issued under section 75-369.04 and any rules and regulations adopted and promulgated under section 75-368 and any applicable federal rules and regulations.

Source: Laws 1933, c. 105, § 5, p. 426; Laws 1939, c. 47, § 1, p. 208; Laws 1941, c. 125, § 2, p. 481; C.S.Supp.,1941, § 39-1193; R.S. 1943, § 39-723; Laws 1947, c. 147, § 2(4), p. 406; Laws 1953, c. 134, § 2, p. 418; Laws 1969, c. 318, § 2, p. 1155; C.S.Supp.,1972, § 39-723.03; Laws 1979, LB 287, § 2; Laws 1984, LB 726, § 3; Laws 1986, LB 783, § 1; R.S.1943, (1988), § 39-6,182; Laws 1993, LB 370, § 396; Laws 2013, LB398, § 1.

60-6,301 Vehicles; overload; reduce or shift load; exceptions; permit fee; warning citation; when.

When any motor vehicle, semitrailer, or trailer is operated upon the highways of this state carrying a load in excess of the maximum weight permitted by section 60-6,294, the load shall be reduced or shifted to within such maximum tolerance before being permitted to operate on any public highway of this state, except that:

(1) If any motor vehicle, semitrailer, or trailer exceeds the maximum load on only one axle, only one tandem axle, or only one group of axles when (a) the distance between the first and last axle of such group of axles is twelve feet or less, (b) the excess axle load is no more than five percent in excess of the maximum load for such axle, tandem axle, or group of axles permitted by such section, while the vehicle or combination of vehicles is within the maximum gross load, and (c) the load on such vehicle is such that it can be shifted or the configuration of the vehicle can be changed so that all axles, tandem axle, or groups of axles are within the maximum permissible limit for such axle, tandem axle, or group of axles, such shift or change of configuration may be made without penalty;

(2) Any motor vehicle, semitrailer, or trailer carrying only a load of livestock may exceed the maximum load as permitted by such section on only one axle, only one tandem axle, or only one group of axles when the distance between the first and last axle of the group of axles is six feet or less if the excess load on the axle, tandem axle, or group of axles is caused by a shifting of the weight of the livestock by the livestock and if the vehicle or combination of vehicles is within the maximum gross load as permitted by such section;

(3) With a permit issued by the Department of Transportation or the Nebraska State Patrol, a truck with an enclosed body and a compacting mechanism, designed and used exclusively for the collection and transportation of garbage or refuse, may exceed the maximum load as permitted by such section by no more than twenty percent on only one axle, only one tandem axle, or only one group of axles when the vehicle is laden with garbage or refuse if the vehicle is within the maximum gross load as permitted by such section. There shall be a permit fee of ten dollars per month or one hundred dollars per year. The permit may be issued for one or more months up to one year, and the term of applicability shall be stated on the permit;

(4) Any motor vehicle, semitrailer, or trailer carrying any kind of a load, including livestock, which exceeds the legal maximum gross load by five percent or less may proceed on its itinerary and unload the cargo carried thereon to the maximum legal gross weight at the first unloading facility on the itinerary where the cargo can be properly protected. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator; and

(5) Any motor vehicle, semitrailer, or trailer carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any tandem axle, group of axles, and gross weight. Any truck with no more than a single rear axle carrying grain or other seasonally harvested products may operate from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory up to seventy miles with a load that exceeds the maximum load permitted by section 60-6,294 by fifteen percent on any single axle and gross weight. The owner or a representative of the owner of the agricultural product shall furnish the driver of the loaded vehicle a signed statement of origin and destination.

Nothing in this section shall be construed to permit to be operated on the National System of Interstate and Defense Highways any vehicle or combination of vehicles which exceeds any of the weight limitations applicable to such system as contained in section 60-6,294.

If the maximum legal gross weight or axle weight of any vehicle is exceeded by five percent or less and the arresting peace officer or carrier enforcement officer has reason to believe that such excessive weight is caused by snow, ice, or rain, the officer may issue a warning citation to the operator.

Source: Laws 1953, c. 134, § 5, p. 420; Laws 1955, c. 150, § 1, p. 446; Laws 1963, c. 226, § 3, p. 710; Laws 1969, c. 318, § 4, p. 1156; Laws 1973, LB 491, § 5; R.S.Supp.,1973, § 39-723.07; Laws 1974, LB 920, § 5; Laws 1976, LB 823, § 1; Laws 1977, LB 427, § 3; Laws 1980, LB 785, § 4; Laws 1984, LB 726, § 6; Laws 1986, LB 833, § 2; R.S.1943, (1988), § 39-6,185; Laws 1993, LB 370, § 397; Laws 2000, LB 1361, § 10; Laws 2007, LB148, § 1; Laws 2017, LB339, § 226.

60-6,304 Load; contents; requirements; vehicle that contained livestock; spill prohibited; violation; penalty.

(1)(a) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from the vehicle.

(b) Except as provided in subsection (2) of this section for a vehicle that contained livestock, but still contains the manure or urine of such livestock, no person shall transport any sand, gravel, rock less than two inches in diameter, or refuse in any vehicle on any hard-surfaced state highway if such material protrudes above the sides of that part of the vehicle in which it is being

transported unless such material is enclosed or completely covered with canvas or similar covering.

(c) No person shall drive or move a motor vehicle, trailer, or semitrailer upon any highway unless the cargo or contents carried by the motor vehicle, trailer, or semitrailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. The tailgate, doors, tarpaulins, and any other equipment used in the operation of the motor vehicle, trailer, or semitrailer or in the distributing or securing of the cargo or contents carried by the motor vehicle, trailer, or semitrailer shall be secured to prevent cargo or contents falling from the vehicle. The means of securement to the motor vehicle, trailer, or semitrailer must be either tiedowns and tiedown assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate, endboard, or stakes strong enough and high enough to assure that cargo or contents will not fall from the vehicle.

(d) Any person who violates any provision of this subsection is guilty of a Class IV misdemeanor.

(2)(a) No person operating any vehicle that contained livestock, but still contains the manure or urine of livestock, on any highway located within the corporate limits of a city of the metropolitan class, shall spill manure or urine from the vehicle.

(b) Any person who violates this subsection is guilty of a Class IV misdemeanor and shall be assessed a minimum fine of at least two hundred fifty dollars.

Source: Laws 1969, c. 304, § 1, p. 1095; C.S.Supp.,1972, § 39-735.02; Laws 1974, LB 593, § 7; Laws 1977, LB 41, § 21; R.S.1943, (1988), § 39-6,129; Laws 1993, LB 370, § 400; Laws 1993, LB 575, § 28; Laws 2002, LB 1105, § 463; Laws 2007, LB147, § 1; Laws 2014, LB174, § 2.

(aa) SPECIAL RULES FOR MOTORCYCLES

60-6,306 Nebraska Rules of the Road; applicability to persons operating motorcycles.

(1) Any person who operates a motorcycle shall have all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under the Nebraska Rules of the Road except for special motorcycle regulations in the rules and except for those provisions of the rules which by their nature can have no application.

(2) For purposes of this section, motorcycle does not include an auticycle.

Source: Laws 1973, LB 45, § 92; R.S.1943, (1988), § 39-692; Laws 1993, LB 370, § 402; Laws 2018, LB909, § 108.
Effective date April 12, 2018.

Cross References

Helmet requirements, see sections 60-6,278 to 60-6,282.

60-6,307 Restrictions on operating motorcycles.

(1) Any person who operates a motorcycle shall ride only upon a permanent and regular seat attached to the motorcycle. A person operating a motorcycle shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which

event a passenger may ride upon the permanent and regular seat, if designed for two persons, or upon another seat firmly attached to the motorcycle to the rear or side of the operator.

(2) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward.

(3) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

(4) No operator shall carry any person, nor shall any person ride, in a position that interferes with the operation or control of the motorcycle or the view of the operator.

(5) Any motorcycle which carries a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(6) No person shall operate any motorcycle with handlebars more than fifteen inches above the mounting point of the handlebars.

(7) For purposes of this section, motorcycle does not include an autocytle.

Source: Laws 1973, LB 45, § 93; R.S.1943, (1988), § 39-693; Laws 1993, LB 370, § 403; Laws 2018, LB909, § 109.
Effective date April 12, 2018.

60-6,308 Operating motorcycles on roadways laned for traffic; prohibited acts.

(1) A motorcycle shall be entitled to full use of a traffic lane of any highway, and no vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of such lane, except that motorcycles may be operated two abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by a vehicle being overtaken.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) of this section shall not apply to peace officers in the performance of their official duties.

(6) No person who rides upon a motorcycle shall attach himself, herself, or the motorcycle to any other vehicle on a roadway.

(7) For purposes of this section, motorcycle does not include an autocytle.

Source: Laws 1973, LB 45, § 94; R.S.1943, (1988), § 39-694; Laws 1993, LB 370, § 404; Laws 2018, LB909, § 110.
Effective date April 12, 2018.

(bb) SPECIAL RULES FOR MOPEDS

60-6,311 Moped; operator; Nebraska Rules of the Road; applicable.

(1) Any person who rides a moped upon a roadway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle under the Nebraska Rules of the Road except for special moped regulations in the rules and except for those provisions of the rules which by their nature can have no application.

(2) Regulations applicable to mopeds shall apply whenever a moped is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the use of mopeds.

Source: Laws 1979, LB 23, § 5; R.S.1943, (1988), § 39-6,198; Laws 1993, LB 370, § 407; Laws 2017, LB339, § 227.

60-6,313 Operating mopeds on roadways laned for traffic; prohibited acts.

(1) A moped shall be entitled to full use of a traffic lane of any highway with an authorized speed limit of forty-five miles per hour or less, and no vehicle shall be operated in such a manner as to deprive any moped of the full use of such lane, except that mopeds and motorcycles may be operated two abreast in a single lane.

(2) No person shall operate a moped between lanes of traffic or between adjacent lines or rows of vehicles.

(3) Mopeds shall not be operated more than two abreast in a single lane.

(4) Any person who operates a moped on a roadway with an authorized speed limit of more than forty-five miles per hour shall ride as near to the right side of the roadway as practicable and shall not ride more than single file.

(5) No person who rides upon a moped shall attach himself, herself, or the moped to any other vehicle on a roadway.

(6) Mopeds shall not be operated on the National System of Interstate and Defense Highways or on sidewalks.

(7) Notwithstanding the maximum speed limits in excess of twenty-five miles per hour established in section 60-6,186, no person shall operate any moped at a speed in excess of thirty miles per hour.

(8) For purposes of this section, motorcycle does not include an autocycle.

Source: Laws 1979, LB 23, § 7; R.S.1943, (1988), § 39-6,200; Laws 1993, LB 370, § 409; Laws 2018, LB909, § 111.
Effective date April 12, 2018.

Cross References

Operator's license, assessment of points for speeding, see section 60-4,182.

(cc) SPECIAL RULES FOR BICYCLES

60-6,314 Nebraska Rules of the Road; applicability to persons operating bicycles.

(1) Any person who operates a bicycle upon a highway shall have all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the Nebraska Rules of the Road except for special bicycle regulations in the rules, except for those provisions of the rules which by their nature can have no application, and except as provided in section 60-6,142.

(2) Regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside by the Department of Transportation or a local authority for the exclusive use of bicycles.

Source: Laws 1973, LB 45, § 86; R.S.1943, (1988), § 39-686; Laws 1993, LB 370, § 410; Laws 1993, LB 575, § 19; Laws 2017, LB339, § 228.

Cross References

Hand and arm signals, see sections 60-6,162 and 60-6,163.

60-6,317 Bicycles on roadways and bicycle paths; general rules; regulation by local authority.

(1)(a) Any person who operates a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under conditions then existing shall ride as near to the right-hand curb or right-hand edge of the roadway as practicable except when:

(i) Overtaking and passing another bicycle or vehicle proceeding in the same direction;

(ii) Preparing for a left turn onto a private road or driveway or at an intersection;

(iii) Reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand curb or right-hand edge of the roadway, including fixed or moving objects, stopped or moving vehicles, bicycles, pedestrians, animals, or surface hazards;

(iv) Riding upon a lane of substandard width which is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or

(v) Lawfully operating a bicycle on the paved shoulders of a highway included in the state highway system as provided in section 60-6,142.

(b) Any person who operates a bicycle upon a roadway with a posted speed limit of thirty-five miles per hour or less on which traffic is restricted to one direction of movement and which has two or more marked traffic lanes may ride as near to the left-hand curb or left-hand edge of the roadway as practicable.

(c) Whenever a person operating a bicycle leaves the roadway to ride on the paved shoulder or leaves the paved shoulder to enter the roadway, the person shall clearly signal his or her intention and yield the right-of-way to all other vehicles.

(2) No bicyclist shall suddenly leave a curb or other place of safety and walk or ride into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Any person who operates a bicycle upon a highway shall not ride more than single file except on paths or parts of highways set aside for the exclusive use of bicycles.

(4) A bicyclist riding a bicycle on a sidewalk or across a roadway or shoulder in a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances but shall yield the right-of-way to pedestrians. Nothing in this subsection relieves the bicyclist or the driver of a vehicle from the duty to exercise care.

(5) A local authority may by ordinance further regulate the operation of bicycles and may provide for the registration and inspection of bicycles.

Source: Laws 1973, LB 45, § 90; R.S.1943, (1988), § 39-690; Laws 1993, LB 370, § 413; Laws 1993, LB 575, § 20; Laws 2016, LB716, § 3.

(dd) SPECIAL RULES FOR SNOWMOBILES

60-6,335 Snowmobile operation; regulation; equipment; permission of land-owner.

(1) No person shall operate a snowmobile upon any highway except as provided in sections 60-6,320 to 60-6,346. Subject to regulation by the Department of Transportation and by local authorities, in their respective jurisdictions, a snowmobile may be operated on the roadway of any highway, on the right-hand side of such roadway and in the same direction as the highway traffic, except that no snowmobile shall be operated at any time within the right-of-way of any controlled-access highway within this state.

(2) A snowmobile may make a direct crossing of a highway at any hour of the day if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The snowmobile is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) When the crossing is made between sunset and sunrise or in conditions of reduced visibility, both the headlights and taillights are on.

(3) No snowmobile shall be operated upon a highway unless equipped with at least one headlight and one taillight, with reflector material of a minimum area of sixteen square inches mounted on each side forward of the handlebars, and with brakes.

(4) A snowmobile may be operated upon a highway other than as provided by subsection (2) of this section in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

(5) Unless otherwise provided in sections 60-6,320 to 60-6,346, all other provisions of Chapter 60 shall apply to the operation of snowmobiles upon highways except for those relating to required equipment and those which by their nature have no application.

(6) No person shall operate a snowmobile upon any private lands without first having obtained permission of the owner, lessee, or operator of such lands.

Source: Laws 1971, LB 330, § 13; Laws 1972, LB 1149, § 2; Laws 1977, LB 230, § 11; R.S.1943, (1988), § 60-2013; Laws 1993, LB 370, § 431; Laws 1993, LB 575, § 49; Laws 1995, LB 459, § 4; Laws 2017, LB339, § 229.

Cross References

Operation of snowmobile during public emergency or in parades, see section 60-6,348.

(ee) SPECIAL RULES FOR MINIBIKES AND OTHER OFF-ROAD VEHICLES

60-6,348 Minibikes and off-road designed vehicles; use; emergencies; parades.

Minibikes and all off-road designed vehicles not authorized by law for use on a highway, including, but not limited to, go-carts, riding lawnmowers, garden

tractors, and snowmobiles, shall be exempt from the provisions of sections 60-678, 60-6,351 to 60-6,353, 60-6,380, and 60-6,381 during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational, or community service organization.

Source: Laws 1971, LB 644, § 7; Laws 1972, LB 1196, § 6; Laws 1987, LB 80, § 12; R.S.1943, (1988), § 60-2102; Laws 1993, LB 370, § 444; Laws 2011, LB289, § 33; Laws 2012, LB1155, § 21.

60-6,349 Minibikes and similar vehicles; sale; notice.

All minibikes and similar two-wheeled, three-wheeled, and four-wheeled miniature vehicles offered for sale in this state shall bear the following notice to the customer and user: This vehicle as manufactured or sold is for off-road use only. This section shall not apply to a golf car vehicle or a low-speed vehicle, as applicable to its design, or to an electric personal assistive mobility device.

Source: Laws 1971, LB 644, § 8; Laws 1972, LB 1196, § 7; R.S.1943, (1988), § 60-2103; Laws 1993, LB 370, § 445; Laws 2002, LB 1105, § 464; Laws 2011, LB289, § 34; Laws 2012, LB1155, § 22.

(ff) SPECIAL RULES FOR ALL-TERRAIN VEHICLES

60-6,355 All-terrain vehicle, defined; utility-type vehicle, defined.

(1) For purposes of sections 60-6,355 to 60-6,362:

(a) All-terrain vehicle means any motorized off-highway vehicle which (i) is fifty inches or less in width, (ii) has a dry weight of twelve hundred pounds or less, (iii) travels on three or more nonhighway tires, and (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

(b)(i) Utility-type vehicle means any motorized off-highway vehicle which (A) is seventy-four inches in width or less, (B) is not more than one hundred eighty inches, including the bumper, in length, (C) has a dry weight of two thousand pounds or less, (D) travels on four or more nonhighway tires.

(ii) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.

(2) All-terrain vehicles and utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by sections 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.

Source: Laws 1987, LB 80, § 1; R.S.1943, (1988), § 60-2801; Laws 1993, LB 370, § 451; Laws 2003, LB 333, § 33; Laws 2005, LB 274, § 250; Laws 2010, LB650, § 39; Laws 2012, LB1155, § 24; Laws 2013, LB223, § 3; Laws 2014, LB814, § 7.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-6,356 All-terrain vehicle; utility-type vehicle; operation; restrictions; city or village ordinance; county board resolution.

(1) An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes. The crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted except as provided in subsection (9) of this section. Subsections (2), (3), and (5) through (8) of this section authorize and apply to operation of an all-terrain vehicle or a utility-type vehicle only on a highway other than a controlled-access highway with more than two marked traffic lanes.

(2) An all-terrain vehicle or a utility-type vehicle may be operated in accordance with the operating requirements of subsection (3) of this section:

(a) Outside the corporate limits of a city, village, or unincorporated village if incidental to the vehicle's use for agricultural purposes;

(b) Within the corporate limits of a city or village if authorized by the city or village by ordinance adopted in accordance with this section; or

(c) Within an unincorporated village if authorized by the county board of the county in which the unincorporated village is located by resolution in accordance with this section.

(3) An all-terrain vehicle or a utility-type vehicle may be operated as authorized in subsection (2) of this section when such operation occurs only between the hours of sunrise and sunset. Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section shall have a valid Class O operator's license or a farm permit as provided in section 60-4,126, shall have liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a highway, and shall not operate such vehicle at a speed in excess of thirty miles per hour. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request. When operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

(4) All-terrain vehicles and utility-type vehicles may be operated without complying with subsection (3) of this section on highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

(5) The crossing of a highway other than a controlled-access highway with more than two marked traffic lanes shall be permitted by an all-terrain vehicle or a utility-type vehicle without complying with subsection (3) of this section only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.

(6) All-terrain vehicles and utility-type vehicles may be operated outside the corporate limits of any municipality by electric utility personnel within the course of their employment in accordance with the operation requirements of subsection (3) of this section, except that the operation of the vehicle pursuant to this subsection need not be limited to the hours between sunrise and sunset.

(7) A city or village may adopt an ordinance authorizing the operation of all-terrain vehicles and utility-type vehicles within the corporate limits of the city or village if the operation is in accordance with subsection (3) of this section. The city or village may place other restrictions on the operation of all-terrain vehicles and utility-type vehicles within its corporate limits.

(8) A county board may adopt a resolution authorizing the operation of all-terrain vehicles and utility-type vehicles within any unincorporated village within the county if the operation is in accordance with subsection (3) of this section. The county may place other restrictions on the operation of all-terrain vehicles and utility-type vehicles within the unincorporated village.

(9) The crossing of a controlled-access highway with more than two marked traffic lanes shall be permitted by a utility-type vehicle if the operation is in accordance with the operation requirements of subsection (3) of this section and if the following requirements are met:

(a) The crossing is made at an intersection that:

(i) Is controlled by a traffic control signal; or

(ii) For any intersection located outside the corporate limits of a city or village, is controlled by stop signs;

(b) The crossing at such intersection is made in compliance with the traffic control signal or stop signs; and

(c) The crossing at such intersection is specifically authorized as follows:

(i) If such intersection is located within the corporate limits of a city or village, by ordinance of such city or village;

(ii) If such intersection is located within an unincorporated village, by resolution of the county board of the county in which such unincorporated village is located; or

(iii) If such intersection is located outside the corporate limits of a city or village and outside any unincorporated village, by resolution of the county board of the county in which such intersection is located.

Source: Laws 1987, LB 80, § 2; Laws 1989, LB 114, § 1; Laws 1989, LB 285, § 138; R.S.Supp.,1992, § 60-2802; Laws 1993, LB 370, § 452; Laws 2007, LB307, § 1; Laws 2010, LB650, § 40; Laws 2015, LB122, § 1.

(hh) SPECIAL RULES FOR ELECTRIC PERSONAL
ASSISTIVE MOBILITY DEVICES

60-6,376 Electric personal assistive mobility device; operation; violation; penalty.

(1) Any person who operates an electric personal assistive mobility device on a highway shall have all of the rights and shall be subject to all of the duties applicable to the operator of a vehicle under the Nebraska Rules of the Road except (a) as provided in special electric personal assistive mobility device regulations adopted pursuant to the Nebraska Rules of the Road, (b) any provisions of the Nebraska Rules of the Road which by their nature can have no application, and (c) as provided in section 60-6,142 with respect to operating an electric personal assistive mobility device on a shoulder of a highway.

(2) An electric personal assistive mobility device may be operated on any highway, alley, sidewalk, bike trail, path, or any other area where persons travel, except as provided by the Department of Transportation or local authority. Regulations applicable to an electric personal assistive mobility device shall apply whenever an electric personal assistive mobility device is so operated.

(3) An operator of an electric personal assistive mobility device shall yield to pedestrian traffic and any human-powered or animal-powered vehicle at all times. An operator of an electric personal assistive mobility device shall give an audible signal before overtaking and passing any pedestrian or human-powered or animal-powered vehicle. A person violating this subsection shall be fined ten dollars for the first offense. A person violating this subsection shall have his or her electric personal assistive mobility device impounded for up to thirty days for each subsequent offense.

Source: Laws 2002, LB 1105, § 460; Laws 2017, LB339, § 230.

(ii) EMERGENCY VEHICLE OR ROAD ASSISTANCE VEHICLE

60-6,378 Stopped authorized emergency vehicle or road assistance vehicle; driver; duties; violation; penalty.

(1)(a) A driver in a vehicle on a controlled-access highway approaching or passing a stopped authorized emergency vehicle or road assistance vehicle which makes use of proper audible or visual signals shall proceed with due care and caution as described in subdivision (b) of this subsection.

(b) On a controlled-access highway with at least two adjacent lanes of travel in the same direction on the same side of the highway where a stopped authorized emergency vehicle or road assistance vehicle is using proper audible or visual signals, the driver of the vehicle shall proceed with due care and caution and yield the right-of-way by moving into a lane at least one moving lane apart from the stopped authorized emergency vehicle or road assistance vehicle unless directed otherwise by a peace officer or other authorized emergency personnel. If moving into another lane is not possible because of weather conditions, road conditions, or the immediate presence of vehicular or pedestrian traffic or because the controlled-access highway does not have two available adjacent lanes of travel in the same direction on the same side of the highway where such a stopped authorized emergency vehicle or road assistance vehicle is located, the driver of the approaching or passing vehicle shall reduce his or her speed, maintain a safe speed with regard to the location of the stopped authorized emergency vehicle or road assistance vehicle, the weather conditions, the road conditions, and vehicular or pedestrian traffic, and proceed with due care and caution or proceed as directed by a peace officer or other authorized emergency personnel or road assistance personnel.

(c) Any person who violates this subsection is guilty of a traffic infraction for a first offense and Class IIIA misdemeanor for a second or subsequent offense.

(2) The Department of Transportation shall erect and maintain or cause to be erected and maintained signs giving notice of subsection (1) of this section along controlled-access highways.

(3) Enforcement of subsection (1) of this section shall not be accomplished using simulated situations involving an authorized emergency vehicle or a road assistance vehicle.

(4) This section does not relieve the driver of an authorized emergency vehicle or a road assistance vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(5) For purposes of this section, road assistance vehicle includes a vehicle operated by the Nebraska Department of Transportation, a Nebraska State Patrol motorist assistance vehicle, a United States Department of Transportation registered towing or roadside assistance vehicle, and a utility service vehicle operated by a utility company. A road assistance vehicle shall emit a warning signal utilizing properly displayed emergency indicators such as strobe, rotating, or oscillating lights when stopped along a highway.

Source: Laws 2009, LB92, § 2; Laws 2013, LB154, § 1; Laws 2017, LB339, § 231.

60-6,378.01 Duties of drivers approaching stopped vehicle or towing, maintenance, solid waste collection, or other vehicles.

A driver in a vehicle on any roadway other than a controlled-access highway who is approaching (1) a stopped authorized emergency vehicle using flashing or rotating lights as provided in section 60-6,231 or (2) a vehicle operated by a towing or vehicle recovery service, a Nebraska State Patrol motorist assistance vehicle, a publicly or privately owned utility maintenance vehicle, a highway maintenance vehicle, or a vehicle operated by a solid waste or recycling collection service, which is stopped and displaying strobe or flashing red, yellow, or amber lights, shall, unless otherwise directed by a law enforcement officer, proceed with due care and caution and:

(a) Reduce speed to a reasonable speed below the posted speed limit, move into another lane that is at least one moving lane apart from the stopped vehicle if possible under existing traffic and safety conditions, and be prepared to stop; or

(b) If such a lane change is impossible, unsafe, or prohibited by law, reduce speed to a reasonable speed below the posted speed limit and be prepared to stop.

Source: Laws 2018, LB909, § 98.
Effective date April 12, 2018.

(kk) SPECIAL RULES FOR LOW-SPEED VEHICLES

60-6,380 Low-speed vehicle; restrictions on use.

A low-speed vehicle may be operated on any highway on which the speed limit is not more than thirty-five miles per hour. A low-speed vehicle may cross a highway on which the speed limit is more than thirty-five miles per hour. Nothing in this section shall prevent a county, city, or village from adopting

more stringent ordinances governing low-speed vehicle operation if the governing body of the county, city, or village determines that such ordinances are necessary in the interest of public safety. Any person operating a low-speed vehicle as authorized under this section shall have a valid Class O operator's license and shall have liability insurance coverage for the low-speed vehicle. The Department of Transportation may prohibit the operation of low-speed vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

Source: Laws 2011, LB289, § 32; Laws 2017, LB339, § 232.

(II) SPECIAL RULES FOR GOLF CAR VEHICLES

60-6,381 Golf car vehicles; city, village, or county; operation authorized; restrictions; liability insurance.

(1)(a) A city or village may adopt an ordinance authorizing the operation of golf car vehicles within the corporate limits of the city or village if the operation is on streets adjacent and contiguous to a golf course.

(b) A county board may adopt an ordinance pursuant to section 23-187 authorizing the operation of golf car vehicles within the county if the operation is on roads adjacent and contiguous to a golf course.

(c) Any person operating a golf car vehicle as authorized under this subsection shall have a valid Class O operator's license, and the owner of the golf car vehicle shall have liability insurance coverage for the golf car vehicle. The person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request.

(d) The restrictions of subsection (2) of this section do not apply to ordinances adopted under this subsection.

(2)(a) A city or village may adopt an ordinance authorizing the operation of golf car vehicles on streets within the corporate limits of the city or village if the operation is (i) between sunrise and sunset and (ii) on streets with a posted speed limit of thirty-five miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of twenty miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such a highway in order to cross a portion of the highway system which intersects a street as directed in subsection (3) of this section. A city or village may, as part of such ordinance, implement standards for operation of golf car vehicles that are more stringent than the restrictions of this subsection for the safety of the operator and the public.

(b) A county board may adopt an ordinance pursuant to section 23-187 authorizing the operation of golf car vehicles on roads within the county if the operation is (i) between sunrise and sunset and (ii) on roads with a posted speed limit of thirty-five miles per hour or less. When operating a golf car vehicle as authorized under this subsection, the operator shall not operate such vehicle at a speed in excess of twenty miles per hour. A golf car vehicle shall not be operated at any time on any state or federal highway but may be operated upon such highway in order to cross a portion of the highway system which intersects a road as directed in subsection (3) of this section. A county may, as part of such ordinance, implement standards for operation of golf car

vehicles that are more stringent than the restrictions of this subsection for the safety of the operator and the public.

(c) Any person operating a golf car vehicle as authorized under this subsection shall have a valid Class O operator's license, and the owner of the golf car vehicle shall have liability insurance coverage for the golf car vehicle. The person operating the golf car vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days after such a request. The liability insurance coverage shall be subject to limits, exclusive of interest and costs, as follows: Twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

(3) The crossing of a highway shall be permitted by a golf car vehicle only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The golf car vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

(4) For purposes of this section:

(a) Road means a public way for the purposes of vehicular travel, including the entire area within the right-of-way; and

(b) Street means a public way for the purposes of vehicular travel in a city or village and includes the entire area within the right-of-way.

Source: Laws 2012, LB1155, § 23; Laws 2015, LB570, § 1.

(mm) FARM EQUIPMENT DEALERS

60-6,382 Farm equipment dealers; farm equipment haulers act as representative; conditions; signed statement; contents.

Farm equipment dealers may allow farm equipment haulers to act as their representative when hauling farm equipment to or from the dealer's place of business. Farm equipment haulers shall carry in the motor vehicle hauling the farm equipment a signed statement from the farm equipment dealer stating that they are acting as a representative of the farm equipment dealer. The statement shall be dated and valid for ninety days and shall be subject to inspection by any peace officer. The statement shall indicate the name of the farm equipment dealer, the name of the hauler, and that the dealer authorizes the hauler to act as its representative for purposes of complying with width, height, and length limitations. Nothing in this section shall require farm equipment dealers to provide insurance coverage for farm equipment haulers.

Source: Laws 2014, LB1039, § 2.

60-6,383 Implement of husbandry; weight and load limitations; operation restrictions.

(1) An implement of husbandry being operated on any highway of this state, except the National System of Interstate and Defense Highways, shall be exempt from the weight and load limitations of subsections (2), (3), and (4) of section 60-6,294 but shall be subject to any ordinances or resolutions enacted by local authorities pursuant to section 60-681.

(2) An implement of husbandry being operated on any highway of this state shall not cross any culvert with a span of more than sixty inches or any bridge if the vehicle axle, axle groupings, or gross weight exceeds the limits established in subsections (2), (3), and (4) of section 60-6,294 or weight limits established by bridge postings.

(3) For purposes of this section, an implement of husbandry includes (a) a farm tractor with or without a towed farm implement, (b) a self-propelled farm implement, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil or crops, (d) an agricultural floater-spreader implement as defined in section 60-303, (e) a fertilizer spreader, nurse tank, or truck permanently mounted with a spreader used for spreading or injecting water, dust, or liquid fertilizers or agricultural chemicals, (f) a truck mounted with a spreader used or manufactured to spread or inject animal manure, and (g) a mixer-feed truck owned and used by a livestock-raising operation designed for and used for the feeding of livestock.

Source: Laws 2016, LB977, § 22; Laws 2018, LB310, § 3.

Effective date July 19, 2018.

ARTICLE 13

WEIGHING STATIONS

Section

- 60-1301. Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.
- 60-1302. Eminent domain; procedure.
- 60-1303. Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

60-1301 Weighing stations; portable scales; purpose; location; effect as evidence of weight determination; reweighing, when required; pickup trucks; exception; Nebraska State Patrol; rules and regulations.

In order to promote public safety, to preserve and protect the state highways and bridges and prevent immoderate and destructive use of the same, and to enforce the motor vehicle registration laws, the Department of Transportation shall have the responsibility to construct, maintain, provide, and contract with the Nebraska State Patrol for the operation of weighing stations and provide the funding for the same. The Nebraska State Patrol shall operate the weighing stations, including portable scales, for the weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles. Each of the weighing stations shall be located near, on, or adjacent to a state highway upon real estate owned by the State of Nebraska or upon real estate acquired for that purpose. Weights determined on such weighing stations and portable scales shall be presumed to be accurate and shall be accepted in court as prima facie evidence of a violation of the laws relating to the size, weight, load, and registration of buses, motor trucks, truck-tractors, semitrailers, trailers, and

towed vehicles. The owner or driver of a vehicle found to be in violation of such laws by the use of portable scales shall be advised by the officer operating the portable scale that he or she has the right to demand an immediate reweighing at his or her expense at the nearest permanent state-approved scale capable of weighing the vehicle, and if a variance exists between the weights of the permanent and portable scales, then the weights determined on the permanent scale shall prevail. Sections 60-1301 to 60-1309 shall not apply to pickup trucks with a factory-rated capacity of one ton or less, except as may be provided by rules and regulations of the Nebraska State Patrol, or to recreational vehicles as defined in section 71-4603. The Nebraska State Patrol may adopt and promulgate rules and regulations concerning the weighing of pickup trucks with a factory-rated capacity of one ton or less which tow vehicles. Such rules and regulations shall require trucks towing vehicles to comply with sections 60-1301 to 60-1309 when it is necessary to promote the public safety and preserve and protect the state highways and bridges.

Source: Laws 1949, c. 109, § 1, p. 300; Laws 1951, c. 116, § 1, p. 525; R.R.S.1943, § 39-603.03; Laws 1955, c. 145, § 1, p. 406; Laws 1961, c. 323, § 1, p. 1027; Laws 1963, c. 373, § 5, p. 1197; Laws 1976, LB 823, § 2; Laws 1985, LB 395, § 4; Laws 2002, LB 470, § 1; Laws 2008, LB797, § 2; Laws 2017, LB339, § 233.

60-1302 Eminent domain; procedure.

The Department of Transportation is hereby authorized to take, hold, and acquire by eminent domain so much real estate as may be necessary and convenient to carry out the provisions of section 60-1301. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1949, c. 109, § 2, p. 300; Laws 1951, c. 101, § 88, p. 485; R.R.S.1943, § 39-603.04; Laws 1955, c. 145, § 2, p. 406; Laws 2017, LB339, § 234.

60-1303 Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

(1) The Nebraska State Patrol is hereby designated as the agency to operate the weighing stations and portable scales and to perform carrier enforcement duties.

(2)(a) On and after July 20, 2002, officers of the Nebraska State Patrol appointed to operate the weighing stations and portable scales and to perform carrier enforcement duties shall be known as the carrier enforcement division. The Superintendent of Law Enforcement and Public Safety shall appoint officers of the Nebraska State Patrol to the carrier enforcement division, including officers as prescribed in sections 81-2001 to 81-2009, and carrier enforcement officers as prescribed in sections 60-1301 to 60-1309.

(b) The employees within the Nebraska State Patrol designated to operate the weighing stations and portable scales and to perform carrier enforcement duties before July 20, 2002, and not authorized to act under subdivisions (1) through (8) of section 81-2005 shall be known as carrier enforcement officers.

(3) All carrier enforcement officers shall be bonded or insured as required by section 11-201. Premiums shall be paid from the money appropriated for the construction, maintenance, and operation of the state weighing stations.

(4) All employees of the Nebraska State Patrol who are carrier enforcement officers and who are not officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall be members of the State Employees Retirement System of the State of Nebraska. Officers of the Nebraska State Patrol who are carrier enforcement officers on July 20, 2002, who subsequently become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009, and who elect to remain members of the State Employees Retirement System of the State of Nebraska shall continue to participate in the State Employees Retirement System of the State of Nebraska. Carrier enforcement officers shall not receive any expense allowance as provided for by section 81-2002.

(5) The Nebraska State Patrol and the Department of Transportation shall have the duty, power, and authority to contract with one another for the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties to ensure that there is adequate personnel in the carrier enforcement division to carry out the duties specified in sections 60-1301 to 60-1309. Through June 30, 2005, the number of full-time equivalent positions funded pursuant to such contract shall be limited to eighty-eight officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 assigned to the carrier enforcement division. Pursuant to such contract, command of the personnel involved in such carrier enforcement operations shall be with the Nebraska State Patrol. The Department of Transportation may use any funds at its disposal for its financing of such carrier enforcement activity in accordance with such contract as long as such funds are used only to finance those activities directly involved with the duties specified in sections 60-1301 to 60-1309. The Nebraska State Patrol shall account for all appropriations and expenditures related to the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties in a budget program that is distinct and separate from budget programs used for non-carrier-enforcement-division-related activities.

(6) The Nebraska State Patrol may adopt, promulgate, and enforce rules and regulations consistent with statutory provisions related to carrier enforcement necessary for (a) the collection of fees, as outlined in sections 60-3,177 and 60-3,179 to 60-3,182 and the International Fuel Tax Agreement Act, (b) the inspection of licenses and permits required under the motor fuel laws, and (c) weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles.

Source: Laws 1955, c. 145, § 3, p. 406; Laws 1978, LB 653, § 21; Laws 1985, LB 395, § 5; Laws 1991, LB 627, § 7; Laws 1994, LB 1066, § 47; Laws 1996, LB 1218, § 15; Laws 2002, LB 470, § 2; Laws 2003, LB 408, § 2; Laws 2004, LB 884, § 32; Laws 2004, LB 983, § 2; Laws 2005, LB 274, § 253; Laws 2007, LB322, § 10; Laws 2017, LB339, § 235.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.

ARTICLE 14

MOTOR VEHICLE INDUSTRY LICENSING

Section

- 60-1401. Act, how cited; applicability of amendments.
- 60-1401.02. Definitions, where found.
- 60-1401.28. Motorcycle, defined.
- 60-1401.42. Autocycle, defined.
- 60-1401.43. Stop-sale order, defined.
- 60-1403. Board; investigators; powers and duties; seal; records; authentication; review of action; when.
- 60-1403.01. License required; restriction on issuance; exception.
- 60-1406. Licenses; classes.
- 60-1407. Application for license; contents.
- 60-1409. Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.
- 60-1410. License; form; display; pocket card.
- 60-1411. Notice of changes; return of pocket card; required when.
- 60-1411.01. Administration and enforcement expenses; how paid; fees; licenses; expiration.
- 60-1411.02. Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.
- 60-1413. Disciplinary actions; procedure.
- 60-1416. Acting without license; penalty.
- 60-1417.02. Auction; registration of seller; exception.
- 60-1420. Franchise; termination; noncontinuance; change community; hearing; when required.
- 60-1424. Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application.
- 60-1425. Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application; hearing; notice.
- 60-1427. Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.
- 60-1429. Franchise; termination; noncontinuation; change community; additional dealership; acts not constituting good cause.
- 60-1436. Manufacturer or distributor; prohibited acts with respect to new motor vehicle dealers.
- 60-1437. Manufacturer or distributor; prohibited acts with respect to new motor vehicles.
- 60-1438. Manufacturer or distributor; warranty obligation; prohibited acts.
- 60-1438.01. Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.
- 60-1439.01. Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.
- 60-1441. New motor vehicle dealers; recall repairs; compensation; stop-sale or do-not-drive order; compensation; applicability of section; prohibited acts.

60-1401 Act, how cited; applicability of amendments.

Sections 60-1401 to 60-1441 shall be known and may be cited as the Motor Vehicle Industry Regulation Act.

Any amendments to the act shall apply to franchises subject to the act which are entered into, amended, altered, modified, renewed, or extended after the date of the amendments to the act except as otherwise specifically provided in the act.

All amendments to the act shall apply upon the issuance or renewal of a dealer's or manufacturer's license.

Source: Laws 2010, LB816, § 12; Laws 2011, LB477, § 1; Laws 2013, LB133, § 1; Laws 2015, LB231, § 39; Laws 2018, LB909, § 112.
Effective date April 12, 2018.

60-1401.02 Definitions, where found.

For purposes of the Motor Vehicle Industry Regulation Act, the definitions found in sections 60-1401.03 to 60-1401.40, 60-1401.42, and 60-1401.43 apply.

Source: Laws 1971, LB 768, § 2; Laws 1972, LB 1335, § 1; Laws 1974, LB 754, § 1; Laws 1978, LB 248, § 3; Laws 1983, LB 234, § 18; Laws 1984, LB 825, § 12; Laws 1989, LB 280, § 1; Laws 1993, LB 121, § 388; Laws 1993, LB 200, § 1; Laws 1995, LB 564, § 2; Laws 1996, LB 1035, § 1; Laws 1998, LB 903, § 3; Laws 2000, LB 1018, § 1; Laws 2003, LB 498, § 1; Laws 2003, LB 563, § 34; Laws 2005, LB 274, § 256; Laws 2008, LB797, § 3; Laws 2009, LB50, § 1; Laws 2010, LB816, § 14; Laws 2015, LB231, § 40; Laws 2018, LB909, § 113.
Effective date April 12, 2018.

60-1401.28 Motorcycle, defined.

Motorcycle means every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and for which evidence of title is required as a condition precedent to registration under the laws of this state. Motorcycle includes an autocycle.

Source: Laws 2010, LB816, § 40; Laws 2015, LB231, § 42; Laws 2018, LB909, § 116.
Effective date April 12, 2018.

60-1401.42 Autocycle, defined.

Autocycle means any motor vehicle (1) having a seat that does not require the operator to straddle or sit astride it, (2) designed to travel on three wheels in contact with the ground, (3) having antilock brakes, (4) designed to be controlled with a steering wheel and pedals, and (5) in which the operator and passenger ride either side by side or in tandem in a seating area that is equipped with a manufacturer-installed three-point safety belt system for each occupant and that has a seating area that either (a) is completely enclosed and is equipped with manufacturer-installed airbags and a manufacturer-installed roll cage or (b) is not completely enclosed and is equipped with a manufacturer-installed rollover protection system.

Source: Laws 2015, LB231, § 41; Laws 2018, LB909, § 117.
Effective date April 12, 2018.

60-1401.43 Stop-sale order, defined.

Stop-sale order means a notification issued by a manufacturer, distributor, factory branch, or distributor branch to its franchised new motor vehicle dealers stating that certain used motor vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or a noncompliance or due to a federal emissions recall.

Source: Laws 2018, LB909, § 114.
Effective date April 12, 2018.

60-1403 Board; investigators; powers and duties; seal; records; authentication; review of action; when.

(1) The board may:

(a) Regulate the issuance and revocation of licenses in accordance with and subject to the Motor Vehicle Industry Regulation Act;

(b) Perform all acts and duties provided for in the act necessary to the administration and enforcement of the act; and

(c) Make and enforce rules and regulations relating to the administration of but not inconsistent with the act.

(2) The board shall adopt a seal, which may be either an engraved or ink stamp seal, with the words Nebraska Motor Vehicle Industry Licensing Board and such other devices as the board may desire included on the seal by which it shall authenticate the acts of its office. Copies of all records and papers in the office of the board under the hand and seal of its office shall be received in evidence in all cases equally and with like effect as the original.

(3) Investigators employed by the board may enter upon and inspect the facilities, the required records, and any vehicles, trailers, or motorcycles found in any licensed motor vehicle, motorcycle, or trailer dealer's established place or places of business.

(4) With respect to any action taken by the board, if a controlling number of the members of the board are active participants in the vehicle market in which the action is taken, the chairperson shall review the action taken and, upon completion of such review, modify, alter, approve, or reject the board's action.

Source: Laws 1957, c. 280, § 3, p. 1015; Laws 1967, c. 394, § 3, p. 1229; Laws 1971, LB 768, § 4; Laws 1994, LB 850, § 1; Laws 1995, LB 564, § 3; Laws 2010, LB816, § 55; Laws 2016, LB977, § 26.

60-1403.01 License required; restriction on issuance; exception.

(1) No person shall engage in the business as, serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, auction dealer, dealer's agent, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the Motor Vehicle Industry Regulation Act. No dealer's license shall be issued to any minor. No wrecker or salvage dealer's license shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring licensing is performed and which conforms to all local laws.

(2) A license issued under the act shall authorize the holder thereof to engage in the business or activities permitted by the license subject to the act and the rules and regulations adopted and promulgated by the board under the act.

(3) This section shall not apply to a licensed real estate salesperson or broker who negotiates for sale or sells a trailer for any individual who is the owner of not more than two trailers.

(4) This section shall not restrict a licensed motor vehicle dealer from conducting an auction as provided in subsection (5) of section 60-1417.02.

Source: Laws 1971, LB 768, § 5; Laws 1972, LB 1335, § 2; Laws 1974, LB 754, § 3; Laws 1983, LB 234, § 20; Laws 2000, LB 1018, § 2; Laws 2003, LB 498, § 2; Laws 2010, LB816, § 56; Laws 2013, LB164, § 1; Laws 2017, LB346, § 3.

60-1406 Licenses; classes.

Licenses issued by the board under the Motor Vehicle Industry Regulation Act shall be of the classes set out in this section and shall permit the business activities described in this section:

(1) Motor vehicle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles, trailers, and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This license permits the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license permits one person, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle, trailer, and manufactured home salesperson and the name of the authorized person shall appear on the license;

(2) Manufacturer license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer or manufacturer's factory branch;

(3) Distributor license. This license permits the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor;

(4) Factory representative license. This license permits the licensee to engage in the activities of a factory branch representative;

(5) Factory branch license. This license permits the licensee to maintain a branch office in this state;

(6) Distributor representative license. This license permits the licensee to engage in the activities of a distributor representative;

(7) Finance company license. This license permits the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

(8) Wrecker or salvage dealer license. This license permits the licensee to engage in the business of acquiring motor vehicles or trailers for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories of motor vehicles or trailers;

(9) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(10) Motorcycle dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used motorcycles at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a

stockholder, officer, partner, or member of the licensee, to act as a motorcycle salesperson and the name of the authorized person shall appear on the license;

(11) Motor vehicle auction dealer's license. This license permits the licensee to engage in the business of selling motor vehicles and trailers. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a motor vehicle auction dealer's salesperson and the name of the authorized person shall appear on the license;

(12) Trailer dealer's license. This license permits the licensee to engage in the business of selling or exchanging new, used, or new and used trailers and manufactured homes at the established place of business designated in the license and another place or places of business located within three hundred feet of the designated place of business and within the city or county described in the original license. This form of license permits one person named on the license, either the licensee, if he or she is the individual owner of the licensed business, or a stockholder, officer, partner, or member of the licensee, to act as a trailer and manufactured home salesperson and the name of the authorized person shall appear on the license; and

(13) Dealer's agent license. This license permits the licensee to act as the buying agent for one or more licensed motor vehicle dealers, motorcycle dealers, or trailer dealers. The agent shall act in accordance with a written contract and file a copy of the contract with the board. The dealer shall be bound by and liable for the actions of the agent. The dealer's agent shall disclose in writing to each dealer with which the agent contracts as an agent the names of all other dealers contracting with the agent. The agent shall make each purchase on behalf of and in the name of only one dealer and may purchase for dealers only at auctions and only from licensed dealers. The agent shall not act as a licensed dealer and is not authorized to sell any vehicle pursuant to this license.

Source: Laws 1957, c. 280, § 6, p. 1016; Laws 1961, c. 307, § 8, p. 977; Laws 1963, c. 365, § 4, p. 1170; Laws 1967, c. 394, § 4, p. 1229; Laws 1971, LB 768, § 6; Laws 1972, LB 1335, § 3; Laws 1974, LB 754, § 5; Laws 1978, LB 248, § 5; Laws 1984, LB 825, § 14; Laws 1993, LB 121, § 389; Laws 1995, LB 564, § 4; Laws 1999, LB 632, § 1; Laws 2000, LB 1018, § 4; Laws 2003, LB 498, § 3; Laws 2010, LB816, § 59; Laws 2017, LB346, § 4.

60-1407 Application for license; contents.

Any person desiring to apply for one or more of the types of licenses described in the Motor Vehicle Industry Regulation Act shall submit to the board, in writing, the following required information:

(1) The name and address of the applicant, if the applicant is an individual, his or her social security number, and the name under which he or she intends to conduct business. If the applicant is a partnership or limited liability company, it shall set forth the name and address of each partner or member thereof and the name under which the business is to be conducted. If the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal officers;

(2) The place or places, including the city or village and the street and street number, if any, where the business is to be conducted;

(3) If the application is for a motor vehicle dealer's license, trailer dealer's license, or motorcycle dealer's license (a) the name or names of the new motor vehicle or vehicles, new trailer or trailers, or new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange, (b) the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant, (c) a current copy of each existing franchise, and (d) a description of the community;

(4) If the application is for any of the above-named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle salesperson under such license if issued;

(5) If the application is for a dealer's agent, the dealers for which the agent will be buying;

(6) A description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles;

(7) If the application is for a manufacturer's license, a statement regarding the manufacturer's compliance with the Motor Vehicle Industry Regulation Act; and

(8) A statement that the licensee will comply with and be subject to the act, the rules and regulations adopted and promulgated by the board, and any amendments to the act and the rules and regulations existing on the date of application.

Subdivision (3)(d) of this section shall not be construed to require any licensee who has a franchise on August 31, 2003, to show good cause to be in the same community as any other licensee who has a franchise of the same line-make in the same community on August 31, 2003.

Source: Laws 1957, c. 280, § 7, p. 1017; Laws 1959, c. 286, § 9, p. 1087; Laws 1963, c. 365, § 5, p. 1172; Laws 1967, c. 394, § 5, p. 1231; Laws 1971, LB 768, § 7; Laws 1972, LB 1335, § 4; Laws 1993, LB 121, § 390; Laws 1997, LB 752, § 146; Laws 2003, LB 182, § 1; Laws 2003, LB 498, § 4; Laws 2010, LB816, § 60; Laws 2017, LB346, § 5.

60-1409 Nebraska Motor Vehicle Industry Licensing Fund; created; collections; disbursements; investment; audited.

The Nebraska Motor Vehicle Industry Licensing Fund is created. All fees collected under the Motor Vehicle Industry Regulation Act shall be remitted by the board, as collected, to the State Treasurer for credit to the fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairperson of the board or the executive secretary, except that transfers from the fund to the General Fund may be made at the direction of the Legislature through June 30, 2018. The expenses of conducting the office must always be kept within the income collected and

reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund, and all money deposited in the Nebraska Motor Vehicle Industry Licensing Fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to any person or any other governmental agency.

Any money in the Nebraska Motor Vehicle Industry Licensing Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund shall be audited by the Auditor of Public Accounts at such time as he or she determines necessary.

The State Treasurer shall transfer five hundred thousand dollars from the Nebraska Motor Vehicle Industry Licensing Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1957, c. 280, § 9, p. 1019; Laws 1969, c. 584, § 60, p. 2382; Laws 1972, LB 1335, § 5; Laws 1974, LB 754, § 8; Laws 1978, LB 248, § 6; Laws 1995, LB 7, § 63; Laws 2002, LB 1310, § 6; Laws 2009, First Spec. Sess., LB3, § 36; Laws 2010, LB816, § 65; Laws 2011, LB337, § 3; Laws 2017, LB331, § 29.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1410 License; form; display; pocket card.

The board shall prescribe the form of the license and each license shall have printed thereon the seal of its office. All licenses shall be mailed to each licensee. It shall be the duty of each dealer to conspicuously display his or her own license or licenses in his or her place or places of business.

The board shall prepare and deliver a pocket card for dealer's agents, factory representatives, and distributor representatives. Such card shall certify that the person whose name appears thereon is a licensed dealer's agent, factory representative, or distributor representative, as the case may be.

Source: Laws 1957, c. 280, § 10, p. 1019; Laws 1963, c. 365, § 7, p. 1173; Laws 1971, LB 768, § 9; Laws 1972, LB 1335, § 6; Laws 2003, LB 498, § 5; Laws 2017, LB346, § 6.

60-1411 Notice of changes; return of pocket card; required when.

If a motor vehicle dealer, motorcycle dealer, or trailer dealer changes the address of his or her place of business, changes franchise, adds another franchise, or loses a franchise for sale of new motor vehicles, motorcycles, or trailers, the dealer shall notify the board of such change within ten days prior to such change. Thereupon the license shall be corrected for the unexpired portion of the term at no additional fee except as provided in section 60-1411.01.

If a dealer's agent changes his or her agent's status with any dealer, the agent shall notify the board. If the agent is no longer contracting with any dealer, the

dealer's agent license shall lapse and the license and pocket card shall be returned to the board.

Source: Laws 1957, c. 280, § 11, p. 1020; Laws 1963, c. 365, § 8, p. 1174; Laws 1971, LB 768, § 10; Laws 1972, LB 1335, § 7; Laws 2003, LB 498, § 6; Laws 2017, LB346, § 7.

60-1411.01 Administration and enforcement expenses; how paid; fees; licenses; expiration.

(1) To pay the expenses of the administration, operation, maintenance, and enforcement of the Motor Vehicle Industry Regulation Act, the board shall collect with each application for each class of license fees not exceeding the following amounts:

- (a) Motor vehicle dealer's license, four hundred dollars;
- (b) Supplemental motor vehicle dealer's license, twenty dollars;
- (c) Dealer's agent license, one hundred dollars;
- (d) Motor vehicle, motorcycle, or trailer manufacturer's license, six hundred dollars;
- (e) Distributor's license, six hundred dollars;
- (f) Factory representative's license, twenty dollars;
- (g) Distributor representative's license, twenty dollars;
- (h) Finance company's license, four hundred dollars;
- (i) Wrecker or salvage dealer's license, two hundred dollars;
- (j) Factory branch license, two hundred dollars;
- (k) Motorcycle dealer's license, four hundred dollars;
- (l) Motor vehicle auction dealer's license, four hundred dollars; and
- (m) Trailer dealer's license, four hundred dollars.

(2) The fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of the act.

(3) Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, motorcycle, or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county, all requirements of law are complied with, and a fee of twenty-five dollars is paid, but any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license. If the applicant is an individual, the application shall include the applicant's social security number.

Source: Laws 1971, LB 768, § 11; Laws 1972, LB 1335, § 8; Laws 1974, LB 754, § 9; Laws 1978, LB 248, § 7; Laws 1984, LB 825, § 16; Laws 1997, LB 752, § 147; Laws 1998, LB 903, § 4; Laws 1999, LB 632, § 3; Laws 2003, LB 498, § 7; Laws 2007, LB681, § 1; Laws 2010, LB816, § 66; Laws 2017, LB346, § 8.

60-1411.02 Investigation; denial of application; revocation or suspension of license; probation; administrative fine; grounds.

The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person acting, registered, or licensed under the Motor Vehicle Industry Regulation Act as a motor vehicle dealer, trailer dealer, dealer's agent, manufacturer, factory branch, distributor, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer, or motor vehicle auction dealer or operating without a registration or license when such registration or license is required. The board may deny any application for a license, may revoke or suspend a license, may place the licensee or registrant on probation, may assess an administrative fine in an amount not to exceed five thousand dollars per violation, or may take any combination of such actions if the violator, applicant, registrant, or licensee including any officer, stockholder, partner, or limited liability company member or any person having any financial interest in the violator, applicant, registrant, or licensee:

- (1) Has had any license issued under the act revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;
- (2) Has knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;
- (3) Has failed to provide and maintain an established place of business;
- (4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion. In the event felony charges are pending against an applicant, the board may refuse to issue a license to the applicant until there has been a final determination of the charges;
- (5) Has made a false material statement in his or her application or any data attached to the application or to any investigator or employee of the board;
- (6) Has willfully failed to perform any written agreement with any consumer or retail buyer;
- (7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;
- (8) Has failed to notify the board of a change in the location of his or her established place or places of business;
- (9) Has willfully failed to deliver to a purchaser a proper certificate of ownership for a motor vehicle, trailer, or motorcycle sold by the licensee or to refund the full purchase price if the purchaser cannot legally obtain proper certification of ownership within thirty days;
- (10) Has forged the signature of the registered or legal owner on a certificate of title;
- (11) Has failed to comply with the act and any orders, rules, or regulations of the board adopted and promulgated under the act;
- (12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;
- (13) Has failed to comply with any provisions of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle

Registration Act, or the rules or regulations adopted and promulgated by the board pursuant to the Motor Vehicle Industry Regulation Act;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, rule, or regulation adopted or made under the authority of or pursuant to Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer or other person in the conduct of the licensee's business;

(16) Has failed to comply with sections 60-190 to 60-196;

(17) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under the Uniform Deceptive Trade Practices Act;

(18) Has conspired, as defined in section 28-202, with other persons to process certificates of title in violation of the Motor Vehicle Certificate of Title Act; or

(19) Has violated the Guaranteed Asset Protection Waiver Act.

If the violator, applicant, registrant, or licensee is a publicly held corporation, the board's authority shall extend only to the corporation and its managing officers and directors.

Source: Laws 1971, LB 768, § 12; Laws 1972, LB 1335, § 9; Laws 1974, LB 754, § 10; Laws 1978, LB 248, § 8; Laws 1980, LB 820, § 2; Laws 1984, LB 825, § 17; Laws 1991, LB 47, § 6; Laws 1993, LB 106, § 1; Laws 1993, LB 121, § 391; Laws 1993, LB 370, § 472; Laws 1994, LB 884, § 82; Laws 1995, LB 564, § 5; Laws 1999, LB 632, § 4; Laws 2003, LB 498, § 8; Laws 2005, LB 274, § 257; Laws 2005, LB 276, § 106; Laws 2010, LB571, § 12; Laws 2010, LB816, § 67; Laws 2017, LB346, § 9.

Cross References

Guaranteed Asset Protection Waiver Act, see section 45-1101.

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Registration Act, see section 60-301.

Uniform Deceptive Trade Practices Act, see section 87-306.

60-1413 Disciplinary actions; procedure.

(1) Before the board denies any license or any registration as described in section 60-1417.02, revokes or suspends any such license or registration, places a licensee or registrant on probation, or assesses an administrative fine under section 60-1411.02, the board shall give the applicant, licensee, registrant, or violator a hearing on the matter unless the hearing is waived upon agreement between the applicant, licensee, registrant, or violator and the executive director, with the approval of the board. As a condition of the waiver, the applicant, licensee, registrant, or violator shall accept the fine or other administrative action. If the hearing is not waived, the board shall, at least thirty days prior to the date set for the hearing, notify the party in writing. Such notice in writing shall contain an exact statement of the charges against the party and the date and place of hearing. The party shall have full authority to be heard in person or by counsel before the board in reference to the charges. The written notice may be served by delivery personally to the party or by mailing the notice by registered or certified mail to the last-known business address of the party. If the applicant is a dealer's agent, the board shall also notify the dealer employing or contracting with him or her or whose employ he or she seeks to enter by mailing the notice to the dealer's last-known business address. A

stenographic record of all testimony presented at the hearings shall be made and preserved pending final disposition of the complaint.

(2) When the licensee fails to maintain a bond as provided in section 60-1419, an established place of business, or liability insurance as prescribed by subsection (3) of section 60-1407.01, the license shall immediately expire. The executive director shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of the licensee that his or her license is revoked until a bond as required by section 60-1419 or liability insurance as prescribed by subsection (3) of section 60-1407.01 is furnished and approved in which event the license may be reinstated.

(3) Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive director or his or her representative. If the license is suspended, the executive director or his or her representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties provided in section 60-1416.

Source: Laws 1957, c. 280, § 13, p. 1022; Laws 1963, c. 365, § 10, p. 1177; Laws 1967, c. 394, § 8, p. 1235; Laws 1971, LB 768, § 15; Laws 1978, LB 248, § 9; Laws 1984, LB 825, § 23; Laws 1993, LB 106, § 2; Laws 1995, LB 564, § 7; Laws 1999, LB 632, § 5; Laws 2003, LB 498, § 9; Laws 2017, LB346, § 10.

60-1416 Acting without license; penalty.

Any person acting as a motor vehicle dealer, trailer dealer, wrecker or salvage dealer, motorcycle dealer, auction dealer, dealer's agent, manufacturer, factory representative, distributor, or distributor representative without having first obtained the license provided in section 60-1406 is guilty of a Class IV felony and is subject to the civil penalty provisions of section 60-1411.02.

Source: Laws 1957, c. 280, § 16, p. 1023; Laws 1963, c. 365, § 12, p. 1178; Laws 1971, LB 768, § 19; Laws 1974, LB 754, § 13; Laws 1977, LB 39, § 95; Laws 1984, LB 825, § 26; Laws 1989, LB 47, § 1; Laws 1995, LB 564, § 8; Laws 2003, LB 498, § 10; Laws 2017, LB346, § 11.

60-1417.02 Auction; registration of seller; exception.

(1) Except as otherwise provided in subsection (5) of this section, any person who engages in or attempts to engage in the selling of motor vehicles or trailers at an auction licensed pursuant to the Motor Vehicle Industry Regulation Act shall register to do so. Registration shall be made on a form provided by the auction dealer and approved by the board. A copy of the registration shall serve as proof of registration for the calendar year. The registration information shall be made available and accessible to the board by the auction dealer within seventy-two hours after the registrant has met the registration requirements and such registration is issued. Such registration information shall be maintained and made accessible to the board by the auction dealer for two years. It shall be the duty of the auction dealer to ensure that no seller participates in any sales activities until and unless registration has been received by the auction dealer or unless such seller is otherwise licensed under the act.

(2) The information required on the registration form shall include, but not be limited to, the following: (a) The legal name of the registrant; (b) the registrant's current mailing address and telephone number; (c) the business name and address of the person with whom the registrant is associated; and (d) whether or not the registrant is bonded.

(3) The registration form shall be signed by the registrant and an authorized representative of the auction and shall be notarized by a notary public.

(4) Any person who is convicted of any violation of the act pursuant to section 60-1411.02 may be denied the right to be registered at all licensed auctions of this state following a hearing before the board as prescribed in section 60-1413.

(5) A licensed motor vehicle dealer may conduct an auction of excess inventory of used vehicles without being licensed as an auction dealer or registered under this section if the auction conforms to the requirements of this subsection. The licensed motor vehicle dealer shall conduct the auction upon the licensed premises of the dealer, shall sell only used motor vehicles, trailers, or manufactured homes, shall sell only to motor vehicle dealers licensed in Nebraska, shall not sell any vehicles on consignment, and shall not sell any vehicles directly to the public.

Source: Laws 1984, LB 825, § 29; Laws 1999, LB 340, § 2; Laws 2010, LB816, § 71; Laws 2013, LB164, § 2.

60-1420 Franchise; termination; noncontinuance; change community; hearing; when required.

(1) Except as provided in subsection (2) or (3) of this section, no franchisor shall terminate or refuse to continue any franchise or change a franchisee's community unless the franchisor has first established, in a hearing held pursuant to section 60-1425, that:

(a) The franchisor has good cause for termination, noncontinuance, or change;

(b) Upon termination or noncontinuance, another franchise in the same line-make will become effective in the same community, without diminution of the franchisee's service formerly provided, or that the community cannot be reasonably expected to support such a dealership; and

(c) Upon termination or noncontinuance, the franchisor is willing and able to comply with section 60-1430.02.

(2) Upon providing good and sufficient evidence to the board, a franchisor may terminate a franchise without such hearing (a) for a particular line-make if the franchisor discontinues that line-make, (b) if the franchisee's license as a motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealer is revoked pursuant to the Motor Vehicle Industry Regulation Act, or (c) upon a mutual written agreement of the franchisor and franchisee.

(3) A franchisor may change a franchisee's community without a hearing if the franchisor notifies the franchisee of the proposed change at least thirty days before the change, provides the franchisee an opportunity to object, and enters into an agreement with the franchisee regarding the change of the franchisee's community. If no agreement is reached, the franchisor shall comply with sections 60-1420 to 60-1435 prior to changing the franchisee's community.

Source: Laws 1971, LB 768, § 20; Laws 1987, LB 327, § 1; Laws 1989, LB 280, § 5; Laws 2010, LB816, § 72; Laws 2011, LB477, § 2.

60-1424 Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application.

If a franchisor seeks to terminate or not continue any franchise or change a franchisee's community, or seeks to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle or trailer dealership of the same line-make, the franchisor shall file an application with the board for permission to terminate or not continue the franchise, to change a franchisee's community, or to enter into a franchise for additional representation of the same line-make in that community, except that no application needs to be filed to change a franchisee's community if an agreement has been entered into as provided in subsection (3) of section 60-1420.

Source: Laws 1971, LB 768, § 24; Laws 2011, LB477, § 3.

60-1425 Franchise; termination; noncontinuance; change community; additional dealership of same line-make; application; hearing; notice.

Upon receiving an application under section 60-1424, the board shall enter an order fixing a time, which shall be within ninety days of the date of such order, and place of hearing, and shall send by certified or registered mail, with return receipt requested, a copy of the order to the franchisee whose franchise the franchisor seeks to terminate, not continue, or change. If the application requests permission to change a franchisee's community or establish an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership, a copy of the order shall be sent to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of orders shall be addressed to the franchisee at the place where the business is conducted. The board may also give notice of franchisor's application to any other parties whom the board may deem interested persons, such notice to be in the form and substance and given in the manner the board deems appropriate. Any person who can show an interest in the application may become a party to the hearing, whether or not he or she receives notice, but a party not receiving notice shall be limited to participation at the hearing on the question of the public interest in the termination or continuation of the franchise, the change in community, or the establishment of an additional motor vehicle dealership.

Source: Laws 1971, LB 768, § 25; Laws 2011, LB477, § 4.

60-1427 Franchise; termination; noncontinuance; change community; additional dealership; application; hearing; burden of proof.

Upon hearing, the franchisor shall have the burden of proof to establish that under the Motor Vehicle Industry Regulation Act the franchisor should be granted permission to terminate or not continue the franchise, to change the franchisee's community, or to enter into a franchise establishing an additional motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer dealership.

Nothing contained in the act shall be construed to require or authorize any investigation by the board of any matter before the board under the provisions of sections 60-1420 to 60-1435. Upon hearing, the board shall hear the evidence

introduced by the parties and shall make its decision solely upon the record so made.

Source: Laws 1971, LB 768, § 27; Laws 1972, LB 1335, § 14; Laws 2010, LB816, § 75; Laws 2011, LB477, § 5.

60-1429 Franchise; termination; noncontinuation; change community; additional dealership; acts not constituting good cause.

Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the following shall not constitute good cause, as used in sections 60-1420 and 60-1422, for the termination or noncontinuation of a franchise, for changing the franchisee's community, or for entering into a franchise for the establishment of an additional dealership in a community for the same line-make:

(1) The sole fact that the franchisor desires further penetration of the market;

(2) The change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership unless the franchisor, having the burden of proof, proves that such change of ownership or executive management will be substantially detrimental to the distribution of the franchisor's motor vehicles, combination motor vehicles and trailers, motorcycles, or trailer products or to competition in the community. Substantially detrimental may include, but is not limited to, the failure of any proposed transferee or individual to meet the current criteria generally applied by the franchisor in qualifying new motor vehicle dealers; or

(3) The fact that the franchisee refused to purchase or accept delivery of any motor vehicle, combination motor vehicle and trailer, motorcycle, trailer, vehicle parts or accessories, or other commodity or service not ordered by the franchisee.

Source: Laws 1971, LB 768, § 29; Laws 1984, LB 825, § 32; Laws 1989, LB 280, § 6; Laws 2011, LB477, § 6.

60-1436 Manufacturer or distributor; prohibited acts with respect to new motor vehicle dealers.

A manufacturer or distributor shall not require or coerce any new motor vehicle dealer in this state to do any of the following:

(1) Order or accept delivery of any new motor vehicle, part or accessory, equipment, or other commodity not required by law which was not voluntarily ordered by the new motor vehicle dealer or retain any part or accessory that the dealer has not sold within twelve months if the part or accessory was not obtained through a specific order initiated by the dealer but was specified for, sold to, and shipped to the dealer pursuant to an automatic ordering system, if the part or accessory is in the condition required for return, and if the part or accessory is returned within thirty days after such twelve-month period. For purposes of this subdivision, automatic ordering system means a computerized system required by the franchisor, manufacturer, or distributor that automatically specifies parts and accessories for sale and shipment to the dealer without specific order thereof initiated by the dealer. The manufacturer, factory branch, distributor, or distributor branch shall not charge a restocking or handling fee for any part or accessory returned under this subdivision. In determining whether parts or accessories in the dealer's inventory were specified and sold

under an automated ordering system, the parts and accessories in the dealer's inventory are presumed to be the most recent parts and accessories that were sold to the dealer. This section shall not be construed to prevent the manufacturer or distributor from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer or distributor;

(2) Offer or accept delivery of any new motor vehicle with special features, accessories, or equipment not included in the list price of the new motor vehicle as publicly advertised by the manufacturer or distributor;

(3) Participate monetarily in any advertising campaign or contest or purchase any promotional materials, display devices, or display decorations or materials at the expense of the new motor vehicle dealer;

(4) Join, contribute to, or affiliate with an advertising association;

(5) Enter into any agreement with the manufacturer or distributor or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement or any contractual agreement or understanding existing between the dealer and the manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement shall not constitute a violation of the Motor Vehicle Industry Regulation Act;

(6) Change the capital structure of the new motor vehicle dealership or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria;

(7) Refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products as long as the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, and makes no change in the principal management of the dealer;

(8) Prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by the act or require any controversy between the new motor vehicle dealer and a manufacturer or distributor to be referred to a person other than the duly constituted courts of the state or the United States, if the referral would be binding upon the new motor vehicle dealer;

(9) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, if such changes or alterations would be unreasonable, including unreasonably requiring a franchisee to establish, maintain, or continue exclusive sales facilities, sales display space, personnel, service, parts, or administrative facilities for a line-make, unless such exclusivity is reasonable and otherwise justified by reasonable business considerations. In making that determination, the franchisor shall take into consideration the franchisee's compliance with facility requirements as required by the franchise agreement. The franchisor shall have the burden of proving that business considerations justify exclusivity;

(10) Release, convey, or otherwise provide customer information if to do so is unlawful or if the customer objects in writing to doing so, unless the information is necessary for the manufacturer, factory branch, or distributor to meet its

obligations to consumers or the new motor vehicle dealer including vehicle recalls or other requirements imposed by state or federal law;

(11) Release to any unaffiliated third party any customer information which has been provided by the new motor vehicle dealer to the manufacturer except as provided in subdivision (10) of this section. A manufacturer, importer, or distributor may not share, sell, or transfer customer information, obtained from a dealer and not otherwise publicly available, to other dealers franchised by the manufacturer while the originating dealer is still a franchised dealer of the manufacturer unless otherwise agreed to by the originating dealer. A manufacturer, importer, or distributor may not use any nonpublic personal information, as that term is used in 16 C.F.R. part 313, which is obtained from a dealer unless such use falls within one or more of the exceptions to opt out requirements under 16 C.F.R. 313.14 or 313.15;

(12) Establish in connection with the sale of a motor vehicle prices at which the dealer must sell products or services not manufactured or distributed by the manufacturer or distributor, whether by agreement, program, incentive provision, or otherwise;

(13) Underutilize the dealer's facilities by requiring or coercing a dealer to exclude or remove from the dealer's facilities operations for selling or servicing a line-make of motor vehicles for which the dealer has a franchise agreement to utilize the facilities, except that this subdivision does not prohibit a manufacturer from requiring an exclusive sales area within the facilities that are in compliance with reasonable requirements for the facilities if the dealer complies with subdivision (9) of this section; or

(14)(a) Enter into any agreement with a manufacturer, factory branch, distributor, distributor branch, or one of its affiliates which gives site control of the premises of the dealer that does not terminate upon the occurrence of any of the following events:

(i) The right of the franchisor to manufacture or distribute the line-make of vehicles covered by the dealer's franchise is sold, assigned, or otherwise transferred by the manufacturer, factory branch, distributor, or distributor branch to another; or

(ii) The final termination of the dealer's franchise for any reason unless an agreement for site control is voluntarily negotiated separately and apart from the franchise agreement and consideration has been offered by the manufacturer and accepted by the dealer. If a dealer voluntarily terminates and has entered into a separately negotiated site control agreement, the agreement may survive the termination if the agreement clearly states that fact.

(b) For purposes of this subdivision, site control means the contractual right to control in any way the commercial use and development of the premises upon which a dealer's business operations are located, including the right to approve of additional or different uses for the property beyond those of its franchise, the right to lease or sublease the dealer's property, or the right or option to purchase the dealer's property.

Any action prohibited for a manufacturer or distributor under the Motor Vehicle Industry Regulation Act is also prohibited for a subsidiary which is wholly owned or controlled by contract by a manufacturer or distributor or in

which a manufacturer or distributor has more than a ten percent ownership interest, including a financing division.

Source: Laws 1984, LB 825, § 19; Laws 1999, LB 632, § 7; Laws 2010, LB816, § 81; Laws 2011, LB477, § 7.

60-1437 Manufacturer or distributor; prohibited acts with respect to new motor vehicles.

In addition to the restrictions imposed by section 60-1436, a manufacturer or distributor shall not:

(1) Fail to deliver new motor vehicles or new motor vehicle parts or accessories within a reasonable time and in reasonable quantities relative to the new motor vehicle dealer's market area and facilities, unless the failure is caused by acts or occurrences beyond the control of the manufacturer or distributor or unless the failure results from an order by the new motor vehicle dealer in excess of quantities reasonably and fairly allocated by the manufacturer or distributor;

(2) Refuse to disclose to a new motor vehicle dealer the method and manner of distribution of new motor vehicles by the manufacturer or distributor or, if a line-make is allocated among new motor vehicle dealers, refuse to disclose to any new motor vehicle dealer that handles the same line-make the system of allocation, including, but not limited to, a complete breakdown by model, and a concise listing of dealerships with an explanation of the derivation of the allocation system, including its mathematical formula in a clear and comprehensible form;

(3) Refuse to disclose to a new motor vehicle dealer the total number of new motor vehicles of a given model which the manufacturer or distributor has sold during the current model year within the dealer's marketing district, zone, or region, whichever geographical area is the smallest;

(4) Increase the price of any new motor vehicle which the new motor vehicle dealer had ordered and delivered to the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer shall constitute evidence of such order. In the event of manufacturer or distributor price reduction or cash rebate, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of five dollars shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. A price difference applicable to a new model or series of motor vehicles at the time of the introduction of the new model or series shall not be considered a price increase or price decrease. This subdivision shall not apply to price changes caused by the following:

(a) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

(b) In the case of foreign-made vehicles or components, revaluation of the United States dollar; or

(c) Any increase in transportation charges due to an increase in rates charged by a common carrier or other transporter;

(5) Fail or refuse to sell or offer to sell to all franchised new motor vehicle dealers in a line-make every new motor vehicle sold or offered for sale to any

franchised new motor vehicle dealer of the same line-make. However, the failure to deliver any such new motor vehicle shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or any other cause over which the franchisor has no control. A manufacturer or distributor shall not require that any of its new motor vehicle dealers located in this state pay any extra fee, purchase unreasonable or unnecessary quantities of advertising displays or other materials, or remodel, renovate, or recondition the new motor vehicle dealer's existing facilities in order to receive any particular model or series of vehicles manufactured or distributed by the manufacturer for which the dealers have a valid franchise. Notwithstanding the provisions of this subdivision, nothing contained in this section shall be deemed to prohibit or prevent a manufacturer from requiring that its franchised dealers located in this state purchase special tools or equipment, stock reasonable quantities of certain parts, or participate in training programs which are reasonably necessary for those dealers to sell or service any model or series of new motor vehicles. This subdivision shall not apply to manufacturers of recreational vehicles;

(6) Fail to offer dealers of a specific line-make a new franchise agreement containing substantially similar terms and conditions for sales of the line-make if the ownership of the manufacturer or distributor changes or there is a change in the plan or system of distribution;

(7) Take an adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States. A franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is enforceable only if, at the time of the original sale or lease, the dealer knew or reasonably should have known that the motor vehicle would be exported to a location outside the United States. A dealer is presumed to have no knowledge that a motor vehicle the dealer sells or leases will be exported to a location outside the United States if, under the laws of a state of the United States (a) the motor vehicle is titled, (b) the motor vehicle is registered, and (c) applicable state and local taxes are paid for the motor vehicle. Such presumption may be rebutted by direct, clear, and convincing evidence that the dealer knew or reasonably should have known at the time of the original sale or lease that the motor vehicle would be exported to a location outside the United States. Except as otherwise permitted by subdivision (7) of this section, a franchise provision that allows a manufacturer or distributor to take adverse action against a dealer because the dealer sells or leases a motor vehicle that is later exported to a location outside the United States is void and unenforceable;

(8) Discriminate against a dealer holding a franchise for a line-make of the manufacturer or distributor in favor of other dealers of the same line-make in this state by:

(a) Selling or offering to sell a new motor vehicle to a dealer at a lower actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is available to another dealer in this state during a similar time period; or

(b) Using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the

dealer or later, that results in the sale or offer to sell a new motor vehicle to a dealer at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in this state during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is functionally available to competing dealers of the same line-make in this state on substantially comparable terms;

(9) Refuse to pay a new motor vehicle dealer for sales incentives, service incentives, rebates, or other forms of incentive compensation within thirty days after their approval by the manufacturer or distributor. The manufacturer or distributor shall either approve or disapprove each claim by the dealer within thirty days after receipt of the claim in a proper form generally used by the manufacturer or distributor. Any claims not specifically disapproved in writing within thirty days after receipt shall be considered to be approved;

(10) Perform an audit to confirm payment of a sales incentive, service incentive, rebate, or other form of incentive compensation more than twelve months after the date of payment of the claim or twelve months after the end of the incentive program by the new motor vehicle dealer unless the claim is fraudulent;

(11) Reduce the amount to be paid to a new motor vehicle dealer for a sales incentive, service incentive, rebate, or other form of incentive compensation or charge back a new motor vehicle dealer subsequent to the payment of the claim for a sales incentive, service incentive, rebate, or other form of incentive compensation unless the manufacturer or distributor shows that the claim lacks required documentation or is alleged to be false, fraudulent, or based on a misrepresentation.

A manufacturer or distributor may not deny a claim based solely on a new motor vehicle dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error, that does not put into question the legitimacy of the claim. No reduction in the amount to be paid to the new motor vehicle dealer and no charge back subsequent to the payment of a claim may be made until the new motor vehicle dealer has had notice and an opportunity to correct any deficiency and resubmit the claim and to participate in all franchisor internal appeal processes as well as all available legal processes. If a charge back is the subject of adjudication, internal appeal, mediation, or arbitration, no charge back shall be made until, in the case of an adjudication or legal action, a final order has been issued.

A claim for reimbursement by the manufacturer or distributor of sums due following an audit must be presented to the dealer within ninety days after completion of the audit of the item subject to the claim. A manufacturer or distributor may not setoff or otherwise take control over funds owned or under the control of the new motor vehicle dealer or which are in an account designated for the new motor vehicle dealer when such action is based upon the findings of an audit or other claim with respect thereto until a final decision is issued with respect to any challenge or appeal by either party of any such audit or claim.

Any ambiguity or inconsistency in submission guidelines shall be construed against the manufacturer or distributor;

(12) Make any express or implied statement or representation directly or indirectly that the dealer is under any obligation whatsoever to offer to sell or

sell any extended service contract, extended maintenance plan, gap policy, gap waiver, or other aftermarket product or service offered, sold, backed by, or sponsored by the manufacturer or distributor or to sell, assign, or transfer any of the dealer's retail sales contracts or leases in this state on motor vehicles manufactured or sold by the manufacturer or distributor to a finance company or class of finance companies, leasing company or class of leasing companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies, leasing company or leasing companies, or the specified person or persons; or

(13) Prohibit a franchisee from acquiring a line-make of new motor vehicles solely because the franchisee owns or operates a franchise of the same line-make in a contiguous market.

Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

Source: Laws 1984, LB 825, § 20; Laws 1999, LB 632, § 8; Laws 2010, LB816, § 82; Laws 2011, LB477, § 8; Laws 2012, LB896, § 1.

60-1438 Manufacturer or distributor; warranty obligation; prohibited acts.

(1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles and all parts and components included in or manufactured for installation in the motor vehicles of the manufacturer or distributor. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.

(2)(a) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty parts and labor be less than the rates charged by the dealer for like parts and service to retail or fleet customers, as long as such rates are reasonable. In determining prevailing wage rates, the rate of compensation for labor for that portion of repair orders for routine maintenance, such as tire repair or replacement and oil and fluid changes, shall not be used.

(b) For purposes of this section, compensation for parts may be determined by calculating the price paid by the dealer for parts, including all shipping and other charges, multiplied by the sum of one and the dealer's average percentage markup over the price paid by the dealer for parts purchased by the dealer from the manufacturer and sold at retail. The dealer may establish average

percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring what the average percentage markup is. Within thirty days after receipt of the repair orders, the manufacturer may audit the submitted repair orders and approve or deny approval of the average percentage markup based on the audit. The average percentage markup shall go into effect forty-five days after the approval based on that audit. If the manufacturer denies approval of the average percentage markup declared by the dealer, the dealer may file a complaint with the board. The manufacturer shall have the burden to establish that the denial was reasonable. If the board determines that the denial was not reasonable, the denial shall be deemed a violation of the Motor Vehicle Industry Regulation Act subject to the enforcement procedures of the act. Only retail sales not involving warranty repairs or parts supplied for routine vehicle maintenance shall be considered in calculating average percentage markup. No manufacturer shall require a dealer to establish average percentage markup by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A dealer shall not request a change in the average percentage markup more than twice in one calendar year.

(3) A manufacturer or distributor shall not do any of the following:

(a) Fail to perform any warranty obligation;

(b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or

(c) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall.

(4) A dealer's claim for warranty compensation may be denied only if:

(a) The dealer's claim is based on a nonwarranty repair;

(b) The dealer lacks documentation for the claim;

(c) The dealer fails to comply with specific substantive terms and conditions of the franchisor's warranty compensation program; or

(d) The manufacturer has a bona fide belief based on competent evidence that the dealer's claim is intentionally false, fraudulent, or misrepresented.

(5) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be made within six months after completing the work and shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the manufacturer or distributor within thirty days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. The manufacturer has the right to audit the claims for one year after payment, except that if the manufacturer has reasonable cause to believe that a claim submitted by a dealer is intentionally false or fraudulent, the manufacturer has the right to audit the claims for four years after payment. For purposes of this subsection, reasonable cause means a bona fide belief based upon evidence that the issues of fact are such that a person of ordinary caution,

prudence, and judgment could believe that a claim was intentionally false or fraudulent. As a result of an audit authorized under this subsection, the manufacturer has the right to charge back to the new motor vehicle dealer the amount of any previously paid claim after the new motor vehicle dealer has had notice and an opportunity to participate in all franchisor internal appeal processes as well as all available legal processes. The requirement to approve and pay the claim within thirty days after receipt of the claim does not preclude chargebacks for any fraudulent claim previously paid. A manufacturer may not deny a claim based solely on a dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error that does not put into question the legitimacy of the claim. If a claim is rejected for a clerical error, the dealer may resubmit a corrected claim in a timely manner.

(6) The warranty obligations set forth in this section shall also apply to any manufacturer of a new motor vehicle transmission, engine, or rear axle that separately warrants its components to customers.

(7) This section does not apply to recreational vehicles.

Source: Laws 1984, LB 825, § 21; Laws 1991, LB 393, § 1; Laws 2003, LB 371, § 1; Laws 2010, LB816, § 83; Laws 2011, LB477, § 9; Laws 2013, LB165, § 1.

60-1438.01 Manufacturer or distributor; restrictions with respect to franchises and consumer care or service facilities.

(1) For purposes of this section, manufacturer or distributor includes (a) a factory representative or a distributor representative or (b) a person who is affiliated with a manufacturer or distributor or who, directly or indirectly through an intermediary, is controlled by, or is under common control with, the manufacturer or distributor. A person is controlled by a manufacturer or distributor if the manufacturer or distributor has the authority directly or indirectly, by law or by agreement of the parties, to direct or influence the management and policies of the person. A franchise agreement with a Nebraska-licensed dealer which conforms to and is subject to the Motor Vehicle Industry Regulation Act is not control for purposes of this section.

(2) Except as provided in this section, a manufacturer or distributor shall not directly or indirectly:

(a) Own an interest in a franchise, franchisee, or consumer care or service facility, except that a manufacturer or distributor may hold stock in a publicly held franchise, franchisee, or consumer care or service facility so long as the manufacturer or distributor does not by virtue of holding such stock operate or control the franchise, franchisee, or consumer care or service facility;

(b) Operate or control a franchise, franchisee, or consumer care or service facility; or

(c) Act in the capacity of a franchisee or motor vehicle dealer.

(3) A manufacturer or distributor may own an interest in a franchisee or otherwise control a franchise for a period not to exceed twelve months after the date the manufacturer or distributor acquires the franchise if:

(a) The person from whom the manufacturer or distributor acquired the franchise was a franchisee; and

(b) The franchise is for sale by the manufacturer or distributor.

(4) For purposes of broadening the diversity of its franchisees and enhancing opportunities for qualified persons who lack the resources to purchase a franchise outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a franchise if the manufacturer's or distributor's participation in the franchise is in a bona fide relationship with a franchisee and the franchisee:

(a) Has made a significant investment in the franchise, which investment is subject to loss;

(b) Has an ownership interest in the franchise; and

(c) Operates the franchise under a plan to acquire full ownership of the franchise within a reasonable time and under reasonable terms and conditions.

(5) On a showing of good cause by a manufacturer or distributor, the board may extend the time limit set forth in subsection (3) of this section. An extension may not exceed twelve months. An application for an extension after the first extension is granted is subject to protest by a franchisee of the same line-make whose franchise is located in the same community as the franchise owned or controlled by the manufacturer or distributor.

(6) The prohibition in subdivision (2)(b) of this section shall not apply to any manufacturer of manufactured housing, recreational vehicles, or trailers.

(7) The prohibitions set forth in subsection (2) of this section shall not apply to a manufacturer that:

(a) Does not own or operate more than two such dealers or dealership locations in this state;

(b) Owned, operated, or controlled a warranty repair or service facility in this state as of January 1, 2016;

(c) Manufactures engines for installation in a motor-driven vehicle with a gross vehicle weight rating of more than sixteen thousand pounds for which motor-driven vehicle evidence of title is required as a condition precedent to registration under the laws of this state, if the manufacturer is not otherwise a manufacturer of motor vehicles; and

(d) Provides to dealers on substantially equal terms access to all support for completing repairs, including, but not limited to, parts and assemblies, training and technical service bulletins, and other information concerning repairs that the manufacturer provides to facilities owned, operated, or controlled by the manufacturer.

Source: Laws 2000, LB 1018, § 3; Laws 2010, LB816, § 84; Laws 2011, LB477, § 10; Laws 2016, LB977, § 27.

60-1439.01 Motor vehicle provided by motor vehicle dealer; motor vehicle insurance policies; primary coverage; secondary coverage.

During the time when an insured person is operating a motor vehicle provided by a motor vehicle dealer for use while the insured person's motor vehicle is being serviced, repaired, or inspected by the motor vehicle dealer, when both the insured person's and motor vehicle dealer's motor vehicle insurance policies have a mutually repugnant clause regarding primary coverage, the insured person's motor vehicle insurance policy shall provide primary coverage for the motor vehicle and the motor vehicle insurance policy of the motor vehicle dealer shall provide secondary coverage until the motor vehicle is

returned to the motor vehicle dealer. This section only applies to the loan of a motor vehicle by a motor vehicle dealer which occurs without financial remuneration in the form of a fee or lease charge paid directly by the insured person operating the motor vehicle. Payments made by any third party to a motor vehicle dealer, or similar reimbursements, shall not be considered payments directly from the insured person operating the motor vehicle.

Source: Laws 2013, LB133, § 2.

60-1441 New motor vehicle dealers; recall repairs; compensation; stop-sale or do-not-drive order; compensation; applicability of section; prohibited acts.

(1) A manufacturer, distributor, factory branch, or distributor branch shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer, distributor, factory branch, or distributor branch to perform recall repairs on used motor vehicles. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used motor vehicle held for sale by a new motor vehicle dealer authorized to sell and service new motor vehicles of the same line-make within thirty days after the initial notice of recall, and a stop-sale or do-not-drive order has been issued on the motor vehicle, the manufacturer, distributor, factory branch, or distributor branch shall compensate the new motor vehicle dealer at a prorated rate of at least one percent of the value of the used motor vehicle per month beginning on the date that is thirty days after the date on which the stop-sale or do-not-drive order was provided to the new motor vehicle dealer until the earlier of either of the following:

(a) The date the recall or remedy parts are made available; or

(b) The date the new motor vehicle dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(2) The value of a used motor vehicle shall be the average trade-in value for used motor vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled used motor vehicle.

(3) This section applies only to used motor vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations adopted thereunder and if a stop-sale or do-not-drive order has been issued and repair parts or remedy remain unavailable for thirty days or longer.

(4) This section applies only to new motor vehicle dealers holding an affected used motor vehicle for sale:

(a)(i) In inventory at the time a stop-sale or do-not-drive order was issued; or

(ii) Which was taken in the used motor vehicle inventory of the new motor vehicle dealer as a consumer trade-in incident to the purchase of a new motor vehicle from the new motor vehicle dealer after the stop-sale or do-not-drive order was issued; and

(b) That is of a line-make which the new motor vehicle dealer is franchised to sell or on which the new motor vehicle dealer is authorized to perform recall repairs.

(5) Subject to the audit provisions of subsection (5) of section 60-1438, it shall be a violation of this section for a manufacturer, distributor, factory branch, or distributor branch to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of

the individual new motor vehicle dealer from an incentive program, or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this section. This subsection does not apply to an action by a manufacturer, distributor, factory branch, or distributor branch that is applied uniformly among all new motor vehicle dealers of the same line-make in the state.

(6) Any reimbursement claim made by a new motor vehicle dealer pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the used motor vehicle is subject to a stop-sale or do-not-drive order, shall be subject to the same limitations and requirements as a warranty reimbursement claim made under section 60-1438. In the alternative, a manufacturer, distributor, factory branch, or distributor branch may compensate its franchised new motor vehicle dealers under a national recall compensation program if the compensation under the program is equal to or greater than that provided under subsection (1) of this section; or the new motor vehicle dealer and the manufacturer, distributor, factory branch, or distributor branch otherwise agree.

(7) A manufacturer, distributor, factory branch, or distributor branch may direct the manner and method in which a new motor vehicle dealer demonstrates the inventory status of an affected used motor vehicle in order to determine eligibility for compensation under this section so long as the manner and method are not unduly burdensome and do not require information that is unduly burdensome to provide.

(8) Nothing in this section shall require a manufacturer, distributor, factory branch, or distributor branch to provide total compensation to a new motor vehicle dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under subsection (2) of this section.

(9) Any remedy provided to a new motor vehicle dealer under this section is exclusive and shall not be combined with any other state or federal recall compensation remedy.

Source: Laws 2018, LB909, § 115.
Effective date April 12, 2018.

ARTICLE 15

DEPARTMENT OF MOTOR VEHICLES

- Section
- 60-1505. Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.
- 60-1506. Registration and titling; records; copy or extract provided; electronic access; fee.
- 60-1507. Electronic dealer services system; licensed dealer; participation; service fee; powers of director.
- 60-1508. Vehicle Title and Registration System; legislative intent; collection, storage, and transfer of data on vehicle titles and registrations; department; duties; implementation dates.
- 60-1513. Department of Motor Vehicles Cash Fund; created; use; investment.
- 60-1515. Department of Motor Vehicles Cash Fund; use; legislative intent.

60-1505 Vehicle Title and Registration System Replacement and Maintenance Cash Fund; created; use; investment.

The Vehicle Title and Registration System Replacement and Maintenance Cash Fund is hereby created. The fund shall be administered by the Department

of Motor Vehicles. Revenue credited to the fund shall include fees collected by the department from participation in any multistate electronic data security program, except as otherwise specifically provided by law, and funds transferred as provided in section 60-3,186. The fund shall be used by the department to pay for costs associated with the acquisition, implementation, maintenance, support, upgrades, and replacement of the Vehicle Title and Registration System. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2014, LB906, § 2; Laws 2016, LB977, § 28; Laws 2017, LB263, § 75.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1506 Registration and titling; records; copy or extract provided; electronic access; fee.

(1) The Department of Motor Vehicles shall keep a record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike registered or titled in this state, alphabetically by name of the owner, with cross reference in each instance to the registration number assigned to such motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, and minibike. The record may be destroyed by any public officer having custody of it after three years from the date of its issuance.

(2) The department shall issue a copy of the record of a registered or titled motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike to any person after receiving from the person the name on the registration or certificate of title, the license plate number, the vehicle identification or other type of identification number, or the title number of a motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike, if the person provides to the department verification of identity and purpose pursuant to section 60-2906 or 60-2907. A fee of one dollar shall be charged for the copy. An extract of the entire file of motor vehicles, trailers, motorboats, all-terrain vehicles, utility-type vehicles, snowmobiles, and minibikes registered or titled in the state or updates to the entire file may be provided to a person upon payment of a fee of eighteen dollars per thousand records. Any fee received by the department pursuant to this subsection shall be deposited into the Department of Motor Vehicles Cash Fund.

(3) The record of each motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or title maintained by the department pursuant to this section may be made available electronically through the portal established under section 84-1204 so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. There shall be a fee of one dollar per record for individual records and for data-to-data requests for multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike title and registration records. For bulk record requests of multiple motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike titles and registrations selected on the basis of criteria of the individual making the request, there shall be a fee of fifty dollars for every request under two thousand records, and a fee of eighteen

dollars per one thousand records for any number of records over two thousand, plus a reasonable programming fee not to exceed five hundred twenty dollars. All fees collected pursuant to this subsection for electronic access to records through the portal shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the department.

Source: Laws 2005, LB 274, § 161; Laws 2008, LB756, § 13; Laws 2012, LB719, § 4; R.S.Supp.,2016, § 60-3,161; Laws 2017, LB263, § 76.

Cross References

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-1507 Electronic dealer services system; licensed dealer; participation; service fee; powers of director.

(1) The Department of Motor Vehicles shall develop an electronic dealer services system for implementation as provided in subsection (7) of this section. The Director of Motor Vehicles shall approve a licensed dealer as defined in sections 60-119.02 and 60-335.01 for participation in the system. A licensed dealer may voluntarily participate in the system and provide titling and registration services. A licensed dealer who chooses to participate may collect from a purchaser of a vehicle as defined in section 60-136, who also chooses to participate, all appropriate certificate of title fees, notation of lien fees, registration fees, motor vehicle taxes and fees, and sales taxes. All such fees and taxes collected shall be remitted to the appropriate county treasurer or the department as provided in the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Nebraska Revenue Act of 1967.

(2) In addition to the fees and taxes described in subsection (1) of this section, a participating licensed dealer may charge and collect a service fee not to exceed fifty dollars from a purchaser electing to use the electronic dealer services system.

(3) The department shall provide an approved participating licensed dealer with access to the electronic dealer services system by a method determined by the director. An approved licensed dealer who chooses to participate shall use the system to electronically submit title, registration, and lien information to the Vehicle Title and Registration System maintained by the department. License plates, registration certificates, and certificates of title shall be delivered as provided under the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act.

(4) The director may remove a licensed dealer's authority to participate in the electronic dealer services system for any violation of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the Nebraska Revenue Act of 1967, for failure to timely remit fees and taxes collected under this section, or for any other conduct the director deems to have or will have an adverse effect on the public or any governmental entity.

(5) An approved licensed dealer participating in the electronic dealer services system shall not release, disclose, use, or share personal or sensitive information contained in the records accessible through the electronic dealer services system as prohibited under the Uniform Motor Vehicle Records Disclosure Act, except that a licensed dealer may release, disclose, use, or share such personal

or sensitive information when necessary to fulfill the requirements of the electronic dealer services system as approved by the department. An approved licensed dealer participating in the electronic dealer services system shall be responsible for ensuring that such licensed dealer's employees and agents comply with the Uniform Motor Vehicle Records Disclosure Act.

(6) The department may adopt and promulgate rules and regulations governing the eligibility for approval and removal of licensed dealers to participate in the electronic dealer services system, the procedures and requirements necessary to implement and maintain such system, and the procedures and requirements for approved licensed dealers participating in such system.

(7) The department shall implement the electronic dealer services system on a date to be determined by the director but not later than January 1, 2021.

Source: Laws 2017, LB263, § 77; Laws 2018, LB909, § 119.
Effective date April 12, 2018.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Industry Regulation Act, see section 60-1401.

Motor Vehicle Registration Act, see section 60-301.

Nebraska Revenue Act of 1967, see section 77-2701.

Uniform Motor Vehicle Records Disclosure Act, see section 60-2901.

60-1508 Vehicle Title and Registration System; legislative intent; collection, storage, and transfer of data on vehicle titles and registrations; department; duties; implementation dates.

(1) It is the intent of the Legislature that the Department of Motor Vehicles maintain and further improve the Vehicle Title and Registration System which is the statewide system for the collection, storage, and transfer of data on vehicle titles and registrations as described in section 60-1505.

(2) The department shall provide for technological updates to electronic certificates of title. The Director of Motor Vehicles shall designate an implementation date for the updates which date is on or before January 1, 2021.

(3) The department shall provide for an electronic reporting system for salvage and junked motorboats and vehicles. The director shall designate an implementation date for the system which date is on or before January 1, 2021.

(4) The department shall provide for the use of identification numbers for trailers which do not have a certificate of title. The director shall designate an implementation date for such use which date is on or before January 1, 2021.

Source: Laws 2018, LB909, § 118.
Effective date April 12, 2018.

60-1513 Department of Motor Vehicles Cash Fund; created; use; investment.

The Department of Motor Vehicles Cash Fund is hereby created. The fund shall be administered by the Director of Motor Vehicles. The fund shall be used by the Department of Motor Vehicles to carry out its duties as deemed necessary by the Director of Motor Vehicles, except that transfers from the fund to the General Fund or the Vehicle Title and Registration System Replacement and Maintenance Cash Fund may be made at the direction of the Legislature. Any money in the Department of Motor Vehicles Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer five million three hundred twenty-five thousand dollars from the Department of Motor Vehicles Cash Fund to the Vehicle Title and Registration System Replacement and Maintenance Cash Fund on or before June 30, 2017, as directed by the budget administrator of the budget division of the Department of Administrative Services.

Source: Laws 1993, LB 491, § 17; Laws 1994, LB 1066, § 48; Laws 1995, LB 467, § 16; Laws 1996, LB 1191, § 1; Laws 2003, LB 209, § 16; Laws 2006, LB 1061, § 9; Laws 2007, LB322, § 11; Laws 2016, LB957, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

60-1515 Department of Motor Vehicles Cash Fund; use; legislative intent.

(1) The Legislature hereby finds and declares that a statewide system for the collection, storage, and transfer of data on vehicle titles and registration and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in vehicle titling and registration. The Legislature hereby finds and declares that the electronic issuance of operators' licenses and state identification cards using a digital system as described in section 60-484.01 and the cooperation of state and local government in implementing such a system is essential to the efficient operation of state and local government in issuing operators' licenses and state identification cards.

(2) It is therefor the intent of the Legislature that the Department of Motor Vehicles shall use a portion of the fees appropriated by the Legislature to the Department of Motor Vehicles Cash Fund as follows:

(a) To pay for the cost of issuing motor vehicle titles and registrations on a system designated by the department. The costs shall include, but not be limited to, software and software maintenance, programming, processing charges, and equipment including such terminals, printers, or other devices as deemed necessary by the department after consultation with the county to support the issuance of motor vehicle titles and registrations. The costs shall not include the cost of county personnel or physical facilities provided by the counties;

(b) To fund the centralization of renewal notices for motor vehicle registration and to furnish to the counties the certificate of registration forms specified in section 60-390. The certificate of registration form shall be prescribed by the department;

(c) To pay for the costs of an operator's license system as specified in sections 60-484.01 and 60-4,119 and designated by the department. The costs shall be limited to such terminals, printers, software, programming, and other equipment or devices as deemed necessary by the department to support the issuance of such licenses and state identification cards in the counties and by the department; and

(d) To pay for the motor vehicle insurance data base created under section 60-3,136.

Source: Laws 1993, LB 491, § 19; Laws 1995, LB 467, § 17; Laws 2001, LB 574, § 31; Laws 2002, LB 488, § 6; Laws 2005, LB 274, § 258; Laws 2013, LB207, § 6.

ARTICLE 18
CAMPER UNITS

Section

60-1803. Permit; application; contents; fee.

60-1807. Permit; renewal; issuance; receipt required.

60-1803 Permit; application; contents; fee.

Every owner of a camper unit shall make application for a permit to the county treasurer of the county in which such owner resides or is domiciled or conducts a bona fide business, or if such owner is not a resident of this state, such application shall be made to the county treasurer of the county in which such owner actually lives or conducts a bona fide business, except as otherwise expressly provided. Any person, firm, association, or corporation who is neither a resident of this state nor domiciled in this state, but who desires to obtain a permit for a camper unit owned by such person, firm, association, or corporation, may register the same in any county of this state. The application shall contain a statement of the name, post office address, and place of residence of the applicant, a description of the camper unit, including the name of the maker, the number, if any, affixed or assigned thereto by the manufacturer, the weight, width, and length of the vehicle, the year, the model, and the trade name or other designation given thereto by the manufacturer, if any. Camper unit permits required by sections 60-1801 to 60-1808 shall be issued by the county treasurer in the same manner as registration certificates as provided in the Motor Vehicle Registration Act except as otherwise provided in sections 60-1801 to 60-1808. Every applicant for a permit, at the time of making such application, shall exhibit to the county treasurer evidence of ownership of such camper unit. Contemporaneously with such application, the applicant shall pay a permit fee in the amount of two dollars which shall be distributed in the same manner as all other motor vehicle license fees. Upon proper application being made and the payment of the permit fee, the applicant shall be issued a permit.

Source: Laws 1969, c. 627, § 3, p. 2526; Laws 1993, LB 112, § 40; Laws 1995, LB 37, § 11; Laws 1997, LB 271, § 34; Laws 2005, LB 274, § 260; Laws 2012, LB801, § 95.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-1807 Permit; renewal; issuance; receipt required.

In issuing permits or renewals under sections 60-1801 to 60-1808, the county treasurer shall neither receive nor accept such application nor permit fee nor issue any permit for any such camper unit unless the applicant first exhibits proof by receipt or otherwise (1) that he or she has paid all applicable taxes and fees upon such camper unit based on the computation thereof made in the year preceding the year for which such application for permit is made, (2) that he or she was the owner of another camper unit or other motor vehicles on which he or she paid the taxes and fees during such year, or (3) that he or she owned no camper unit or other motor vehicle upon which taxes and fees might have been imposed during such year.

Source: Laws 1969, c. 627, § 7, p. 2528; Laws 1997, LB 271, § 35; Laws 2005, LB 274, § 262; Laws 2012, LB801, § 96.

ARTICLE 19

ABANDONED MOTOR VEHICLES

Section

- 60-1901. Abandoned vehicle, defined.
60-1903.02. Law enforcement agency; authority to remove abandoned or trespassing vehicle; private towing service; notice; contents.
60-1906. Liability for removal.
60-1910. Rules and regulations.
60-1911. Violations; penalty.

60-1901 Abandoned vehicle, defined.

(1) A motor vehicle is an abandoned vehicle:

(a) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;

(b) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(c) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(d) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(e) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01; or

(f) If removed from private property by a municipality pursuant to a municipal ordinance.

(2) An all-terrain vehicle, a utility-type vehicle, or a minibike is an abandoned vehicle:

(a) If left unattended for more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(b) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

(c) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;

(d) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 60-1903.01; or

(e) If removed from private property by a municipality pursuant to a municipal ordinance.

(3) A mobile home is an abandoned vehicle if left in place on private property for more than thirty days after a local governmental unit, pursuant to an ordinance or resolution, has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title as set forth in section 60-1903.

(4) For purposes of this section:

(a) Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603. Mobile home does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded pursuant to section 60-169;

(b) Public property means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and

(c) Private property means any privately owned property which is not included within the definition of public property.

(5) No motor vehicle subject to forfeiture under section 28-431 shall be an abandoned vehicle under this section.

Source: Laws 1971, LB 295, § 1; Laws 1999, LB 90, § 1; Laws 2004, LB 560, § 41; Laws 2005, LB 274, § 263; Laws 2009, LB60, § 1; Laws 2010, LB650, § 46; Laws 2014, LB1044, § 1.

Cross References

Motor Vehicle Registration Act, see section 60-301.

60-1903.02 Law enforcement agency; authority to remove abandoned or trespassing vehicle; private towing service; notice; contents.

(1) A law enforcement agency is authorized to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. After removal, the law enforcement agency with custody of the vehicle shall follow the procedures in sections 60-1902 and 60-1903.

(2) A law enforcement agency is authorized to contact a private towing service in order to remove an abandoned or trespassing vehicle from private property upon the request of the private property owner on whose property the vehicle is located and upon information indicating that the vehicle is an abandoned or trespassing vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 by the private towing service which towed the vehicle.

(3) A private property owner is authorized to remove or cause the removal of an abandoned or trespassing vehicle from such property and may contact a private towing service for such removal. A private towing service that tows the vehicle shall notify, within twenty-four hours, the designated law enforcement agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the vehicle identification number, if available, the make, model, and color of the vehicle, and the name of the private towing service and the location, if applicable, where the private towing service is storing the vehicle. A vehicle towed away under this subsection is subject to sections 52-601.01 to 52-605 and 60-2410 by the private towing service that towed the vehicle.

(4) For purposes of this section, a trespassing vehicle is a vehicle that is parked without permission on private property that is not typically made available for public parking.

Source: Laws 2018, LB275, § 3.
Operative date July 19, 2018.

60-1906 Liability for removal.

Neither the owner, owner’s agent, owner’s employee, lessee, nor occupant of the premises from which any abandoned vehicle is removed, nor the state, city, village, or county, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the state, city, village, or county or its contractual agent, while in the possession of a private towing service, or as a result of any subsequent disposition.

Source: Laws 1971, LB 295, § 6; Laws 1999, LB 90, § 7; Laws 2018, LB275, § 4.
Operative date July 19, 2018.

60-1910 Rules and regulations.

The Director of Motor Vehicles shall adopt and promulgate rules and regulations providing for such forms and procedures as are necessary or desirable to effectuate the provisions of sections 60-1901 to 60-1911. Such rules and regulations may include procedures for the removal and disposition of vehicle identification numbers of abandoned vehicles, forms for local records for abandoned vehicles, and inquiries relating to ownership of such vehicles.

Source: Laws 1971, LB 295, § 10; Laws 1999, LB 90, § 11; Laws 2018, LB275, § 5.
Operative date July 19, 2018.

60-1911 Violations; penalty.

Except as provided in section 60-1908, any person violating the provisions of sections 60-1901 to 60-1911 shall be guilty of a Class II misdemeanor.

Source: Laws 1971, LB 295, § 11; Laws 1977, LB 39, § 101; Laws 1999, LB 90, § 12; Laws 2018, LB275, § 6.
Operative date July 19, 2018.

ARTICLE 21

MINIBIKES OR MOTORCYCLES

(b) MOTORCYCLE SAFETY EDUCATION

| | |
|----------|---|
| Section | |
| 60-2120. | Act, how cited. |
| 60-2121. | Terms, defined. |
| 60-2125. | Motorcycle safety courses; requirements. |
| 60-2126. | Motorcycle safety course; approval by director; application; contents; certified motorcycle safety instructor required; fee; course audits. |
| 60-2127. | Motorcycle safety instructors; certificate; requirements; renewal; person certified by another state; how treated. |
| 60-2128. | Motorcycle safety instructor preparation course; department; duties. |
| 60-2129. | Motorcycle trainers; requirements; certificates; person certified by another state; how treated. |
| 60-2130. | Motorcycle safety instructor or motorcycle trainer; certificate; term; renewal. |

| | |
|-------------|---|
| Section | |
| 60-2131. | Certification of motorcycle safety course, motorcycle safety instructor's certificate, or motorcycle trainer's certificate; denial, suspension, or revocation; procedure. |
| 60-2132. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2132.01. | Motorcycle Safety Education Fund; transfers. |
| 60-2133. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2134. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2135. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2136. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2137. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2138. | Repealed. Laws 2011, LB 170, § 17. |
| 60-2139. | Rules and regulations. |

(b) MOTORCYCLE SAFETY EDUCATION

60-2120 Act, how cited.

Sections 60-2120 to 60-2139 shall be known and may be cited as the Motorcycle Safety Education Act.

Source: Laws 1986, LB 1004, § 2; Laws 1989, LB 25, § 2; Laws 2011, LB170, § 4.

60-2121 Terms, defined.

For purposes of the Motorcycle Safety Education Act, unless the context otherwise requires:

(1) Department means the Department of Motor Vehicles;

(2) Director means the Director of Motor Vehicles;

(3) Driving course means a driving pattern used to aid students in learning the skills needed to safely operate a motorcycle as part of a motorcycle safety course;

(4) Motorcycle safety course means a curriculum of study which has been approved by the department designed to teach drivers the skills and knowledge to safely operate a motorcycle;

(5) Motorcycle safety instructor means any person who has successfully passed a motorcycle safety instructor's course curriculum and is certified by the department to teach a motorcycle safety course; and

(6) Motorcycle trainer means a person who is qualified and certified by the department to teach another person to become a certified motorcycle safety instructor in this state.

Source: Laws 1981, LB 22, § 1; Laws 1984, LB 1089, § 3; R.S.1943, (1984), § 60-2109; Laws 1986, LB 1004, § 3; Laws 2002, LB 93, § 5; Laws 2011, LB170, § 5.

60-2125 Motorcycle safety courses; requirements.

(1) The department may adopt and promulgate rules and regulations establishing minimum requirements for both basic and advanced motorcycle safety courses. The courses shall be designed to develop, instill, and improve the knowledge and skills necessary for safe operation of a motorcycle.

(2) The motorcycle safety courses shall be designed to teach either a novice motorcycle rider knowledge and basic riding skills or to refresh the knowledge and riding skills of motorcycle riders necessary for the safe and legal operation

of a motorcycle on the highways of this state. Every motorcycle safety course shall be conducted at a site with room for a driving course designed to allow motorcycle riders to practice the knowledge and skills necessary for safe motorcycle operation.

Source: Laws 1981, LB 22, § 2; R.S.1943, (1984), § 60-2110; Laws 1986, LB 1004, § 7; Laws 2011, LB170, § 6.

60-2126 Motorcycle safety course; approval by director; application; contents; certified motorcycle safety instructor required; fee; course audits.

(1) A school, business, or organization may apply to the department to provide a motorcycle safety course or courses in this state. Prospective providers of such course or courses shall submit an application for approval of such course or courses to the director. The application shall include a list of instructors of the course or courses. Such instructors shall be or shall become motorcycle safety instructors certified by the department prior to teaching any motorcycle safety course in this state. Applications for certification of motorcycle safety instructors may be included along with an application for approval of a motorcycle safety course or courses. The director shall approve such course if it meets the requirements set forth by the department by rule and regulation and will be taught by a certified motorcycle safety instructor or instructors.

(2) The application for certification or renewal of a certification of each motorcycle safety course shall be accompanied by a fee of one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. Motorcycle safety course certification shall expire two years from the date of the director's certification.

(3) Motorcycle safety courses shall be subject to audits by the department to assure compliance with the Motorcycle Safety Education Act and rules and regulations of the department.

Source: Laws 1981, LB 22, § 3; R.S.1943, (1984), § 60-2111; Laws 1986, LB 1004, § 8; Laws 2011, LB170, § 7.

60-2127 Motorcycle safety instructors; certificate; requirements; renewal; person certified by another state; how treated.

(1) The director may adopt and promulgate rules and regulations establishing minimum standards, skills' qualifications, and education requirements for motorcycle safety instructors. The director shall issue or renew a certificate in the manner and form prescribed by the director to motorcycle safety instructor applicants who meet such requirements. A motorcycle safety instructor certificate shall expire two years after the date of issuance. To renew a certificate, a person shall submit an application demonstrating compliance with rules and regulations of the department.

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a motorcycle safety instructor by another state or recognized accrediting organization may be issued a motorcycle safety instructor's certificate by the department without having to take the course established in section 60-2128.

(3) A person who holds a valid, unexpired permit issued by the department to be a motorcycle safety instructor before January 1, 2012, shall be recognized as a certified motorcycle safety instructor until January 1, 2014, or until the

expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and become a certified motorcycle safety instructor to teach a motorcycle safety class in this state as provided in rules and regulations of the department.

Source: Laws 1981, LB 22, § 4; R.S.1943, (1984), § 60-2112; Laws 1986, LB 1004, § 9; Laws 2011, LB170, § 8.

60-2128 Motorcycle safety instructor preparation course; department; duties.

The department may adopt and promulgate rules and regulations developing a motorcycle safety instructor preparation course which shall be taught by motorcycle trainers. Such course shall insure that the motorcycle safety instructor who successfully passes the course is familiar with the material included in the particular motorcycle safety course which such motorcycle safety instructor will be teaching.

Source: Laws 1981, LB 22, § 5; Laws 1984, LB 1089, § 4; R.S.1943, (1984), § 60-2113; Laws 1986, LB 1004, § 10; Laws 2011, LB170, § 9.

60-2129 Motorcycle trainers; requirements; certificates; person certified by another state; how treated.

(1) The director may adopt and promulgate rules and regulations establishing minimum education requirements for motorcycle trainers. The director shall issue certificates in the manner and form prescribed by the director to no more than two motorcycle trainers who meet the minimum education, skill, and experience requirements. The department may reimburse documented expenses incurred by a person in connection with taking and successfully passing an educational course to become a motorcycle trainer, as provided in sections 81-1174 to 81-1177, when there are less than two motorcycle trainers working in this state. In return for the reimbursement of such documented expenses, motorcycle trainers shall teach the motorcycle safety instructor preparation course as assigned by the director.

(2) If the certification requirements are comparable to the requirements in this state, a person currently certified as a motorcycle trainer by another state or recognized accrediting organization may be issued a motorcycle trainer's certificate by the department without having to receive the training required by this section.

(3) A person who holds a valid, unexpired permit issued by the department to be a chief instructor for motorcycle safety before January 1, 2012, shall be recognized as a motorcycle trainer until January 1, 2014, or until the expiration date of such permit, whichever is earlier. At that time the permit holder may apply for and be recertified as a motorcycle trainer to teach a motorcycle safety instructor preparation class in this state as provided in rules and regulations of the department.

Source: Laws 1986, LB 1004, § 11; Laws 2011, LB170, § 10.

60-2130 Motorcycle safety instructor or motorcycle trainer; certificate; term; renewal.

All certificates issued under sections 60-2127 and 60-2129 shall be valid for two years and may be renewed upon application to the director as provided in rules and regulations of the department.

Source: Laws 1981, LB 22, § 6; R.S.1943, (1984), § 60-2114; Laws 1986, LB 1004, § 12; Laws 1997, LB 752, § 148; Laws 2011, LB170, § 11.

60-2131 Certification of motorcycle safety course, motorcycle safety instructor's certificate, or motorcycle trainer's certificate; denial, suspension, or revocation; procedure.

(1) The director may cancel, suspend, revoke, or refuse to issue or renew certification of a motorcycle safety course, a motorcycle safety instructor's certificate, or a motorcycle trainer's certificate in any case when the director finds the certificate holder or applicant has not complied with or has violated the Motorcycle Safety Education Act or any rule or regulation adopted and promulgated by the director.

(2) No person or provider whose certificate has been canceled, suspended, revoked, or refused shall be certified until the person or provider meets the requirements of rules and regulations of the department and shows that the event or occurrence that caused the director to take action has been corrected and will not affect future performance. Persons or providers who are suspended may be summarily reinstated upon the director's acceptance of a demonstration of compliance and satisfactory correction of any noncompliance. All other persons or providers shall reapply for certification. A person or provider may contest action taken by the director to cancel, suspend, revoke, or refuse to issue or renew a certificate by filing a written petition with the department within thirty days after the date of the director's action.

Source: Laws 1981, LB 22, § 7; R.S.1943, (1984), § 60-2115; Laws 1986, LB 1004, § 13; Laws 1989, LB 285, § 136; Laws 1999, LB 704, § 48; Laws 2011, LB170, § 12.

60-2132 Repealed. Laws 2011, LB 170, § 17.

60-2132.01 Motorcycle Safety Education Fund; transfers.

Within sixty days after January 1, 2012, twenty-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Department of Motor Vehicles Cash Fund and seventy-five percent of the money remaining in the Motorcycle Safety Education Fund shall be transferred to the Highway Trust Fund. The Motorcycle Safety Education Fund shall be eliminated on such date after the transfers are made.

Source: Laws 2011, LB170, § 13.

60-2133 Repealed. Laws 2011, LB 170, § 17.

60-2134 Repealed. Laws 2011, LB 170, § 17.

60-2135 Repealed. Laws 2011, LB 170, § 17.

60-2136 Repealed. Laws 2011, LB 170, § 17.

60-2137 Repealed. Laws 2011, LB 170, § 17.

60-2138 Repealed. Laws 2011, LB 170, § 17.**60-2139 Rules and regulations.**

The director may adopt and promulgate such rules and regulations for the administration and enforcement of the Motorcycle Safety Education Act as are necessary. In adopting such rules and regulations, the director shall comply with the Administrative Procedure Act.

Source: Laws 1981, LB 22, § 14; R.S.1943, (1984), § 60-2119; Laws 1986, LB 1004, § 21; Laws 2011, LB170, § 14.

Cross References

Administrative Procedure Act, see section 84-920.

ARTICLE 29**UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT**

Section

- 60-2904. Terms, defined.
 60-2905. Disclosure of personal information prohibited.
 60-2907. Motor vehicle record; disclosure; authorized purposes.
 60-2909.01. Disclosure; purposes authorized.

60-2904 Terms, defined.

For purposes of the Uniform Motor Vehicle Records Disclosure Act:

(1) Department means the Department of Motor Vehicles or the duly authorized agents or contractors of the department responsible to compile and maintain motor vehicle records;

(2) Disclose means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person, organization, or entity by any means of communication;

(3) Individual record means a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request;

(4) Motor vehicle record means any record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle, trailer, motorboat, all-terrain vehicle, utility-type vehicle, snowmobile, or minibike registration or certificate of title, or state identification card issued by the department or any other state or local agency authorized to issue any of such forms of credentials;

(5) Person means an individual, organization, or entity;

(6) Personal information means information that identifies a person, including an individual's driver identification number, name, address excluding zip code, and telephone number, but does not include information on collisions, driving, operating, or equipment-related violations, or operator's license or registration status; and

(7) Sensitive personal information means an individual's operator's license digital image, social security number, and medical or disability information.

Source: Laws 1997, LB 635, § 4; Laws 2000, LB 1317, § 11; Laws 2001, LB 574, § 32; Laws 2014, LB777, § 12; Laws 2017, LB263, § 78.

60-2905 Disclosure of personal information prohibited.

(1) Notwithstanding any other provision of state law to the contrary, except as provided in sections 60-2906 and 60-2907, the department and any officer, employee, agent, or contractor of the department shall not disclose personal information about any person obtained by the department in connection with a motor vehicle record.

(2) Notwithstanding any other provision of state law to the contrary, except as provided in sections 60-483, 60-484, 60-4,144, and 60-2909.01, the department and any officer, employee, agent, or contractor of the department shall not disclose sensitive personal information about any person obtained by the department in connection with a motor vehicle record without the express written consent of the person to whom such information pertains.

Source: Laws 1997, LB 635, § 5; Laws 2000, LB 1317, § 12; Laws 2014, LB983, § 57.

60-2907 Motor vehicle record; disclosure; authorized purposes.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the personal information in the record, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(7) For use in providing notice to the owners of abandoned, towed, or impounded vehicles;

(8) For use only for a purpose permitted under this section either by a private detective, plain clothes investigator, or private investigative agency licensed under sections 71-3201 to 71-3213;

(9) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141;

(10) For use in connection with the operation of private toll transportation facilities;

(11) For bulk distribution for surveys of, marketing to, or solicitations of persons who have expressly consented to such disclosure if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department on a form prescribed by the department;

(12) For any use if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department;

(13) For use, including redisclosure through news publication, of a member of a medium of communication as defined in section 20-145 who requests such information in connection with preparing, researching, gathering, or confirming news information involving motor vehicle or driver safety or motor vehicle theft;

(14) For use by the federally designated organ procurement organization for Nebraska to establish and maintain the Donor Registry of Nebraska as provided in section 71-4822;

(15) For use to fulfill the requirements of the electronic dealer services system pursuant to section 60-1507; and

(16) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Source: Laws 1997, LB 635, § 7; Laws 2000, LB 1317, § 13; Laws 2004, LB 559, § 6; Laws 2010, LB1036, § 34; Laws 2014, LB983, § 58; Laws 2017, LB263, § 79.

60-2909.01 Disclosure; purposes authorized.

The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the sensitive personal information in the record, other than the social security number, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(3) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(4) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license or CLP-commercial learner's permit that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141; and

(5) For use by employers of a holder of a commercial driver's license or CLP-commercial learner's permit and by the Commercial Driver License Information System as provided in section 60-4,144.02 and 49 C.F.R. 383.73.

Source: Laws 2000, LB 1317, § 14; Laws 2011, LB178, § 20; Laws 2014, LB983, § 59.

ARTICLE 31

STATE FLEET CARD PROGRAM

Section

- 60-3101. State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.
- 60-3102. State Fleet Card Fund; created; rebates credited to fund; use.

60-3101 State fleet card programs; Department of Transportation; University of Nebraska; State Treasurer; duties; political subdivisions; utilization authorized; unauthorized use prohibited.

(1) State fleet card programs shall be created and shall be administered separately by the Department of Transportation and the University of Nebraska. The Department of Transportation shall administer a fleet card program on behalf of state government and political subdivisions other than the University of Nebraska under a contract through the State Treasurer. The State Treasurer shall determine the type of fleet card or cards utilized in the state fleet card program. The State Treasurer shall contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating a fleet card program on behalf of the state, including the University of Nebraska, and political subdivisions that participate in the state contract for such services. Rules and regulations may be adopted and promulgated as needed by the Department of Transportation or the University of Nebraska for the operation of the state fleet card programs. The rules and regulations shall provide authorization instructions for all transactions. Expenses associated with the

state fleet card programs shall be considered as an administrative or operational expense.

(2) For purposes of this section, fleet card means a payment card used for gasoline, diesel, and other fuels. Fleet cards may also be used to pay for vehicle and equipment maintenance and expenses at the discretion of the program administrator. The Department of Transportation and the University of Nebraska shall each designate a program administrator.

(3) Any state official, agency, board, or commission may utilize a state fleet card for the purchase of goods and services described in subsection (2) of this section for and on behalf of the State of Nebraska. Any political subdivision may utilize a fleet card for the purchase of goods and services described in subsection (2) of this section for lawful government purposes of the political subdivision. No disbursements or cash back on fleet card transactions shall be allowed.

(4) Vendors accepting a state fleet card shall obtain authorization for all transactions in accordance with instructions from the program administrator. Transaction authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the State of Nebraska. Each transaction shall be authorized in accordance with the instructions provided by the program administrator for each state official, agency, board, or commission or each political subdivision.

(5) Detailed transaction information for the purposes of tracking expenditures shall include fleet card identification, merchant name and address, transaction number, date, time, product, quantity, cost, and equipment meter reading if applicable. A state fleet card program may require an itemized receipt for purposes of tracking expenditures of a state fleet card purchase from a commercial vendor as acceptable detailed transaction information. If detailed transaction information is not provided, the program administrator shall have the authority to temporarily or permanently suspend state fleet card purchases in accordance with rules and regulations.

(6) No officer or employee of the state or of a political subdivision shall use a state fleet card for any unauthorized use.

Source: Laws 2013, LB137, § 1; Laws 2017, LB339, § 236.

60-3102 State Fleet Card Fund; created; rebates credited to fund; use.

The State Fleet Card Fund is hereby created. All rebates received by the state from the fleet card program entered into by the State of Nebraska pursuant to section 60-3101 shall be credited to the fund. The fund may consist of fleet card rebates received on behalf of state officers, agencies, boards, and commissions and political subdivisions and shall be administered by the State Treasurer. Fleet card rebates received on behalf of state officers, agencies, boards, and commissions shall be transferred by the State Treasurer from the fund to the General Fund. Fleet card rebates received on behalf of political subdivisions shall be disbursed to political subdivisions consistent with the volume spent and contract terms.

Source: Laws 2013, LB137, § 2.

ARTICLE 32

AUTOMATIC LICENSE PLATE READER PRIVACY ACT

Section

- 60-3201. Act, how cited.
- 60-3202. Terms, defined.
- 60-3203. Prohibited acts; exceptions.
- 60-3204. Retention of captured plate data; limitation; updates; use; limitations.
- 60-3205. Operator; preserve data; written sworn statement; court order for disclosure; disclosures authorized.
- 60-3206. Governmental entity; duties; report; contents.
- 60-3207. Use of captured plate data and related evidence; prohibited.
- 60-3208. Violation of act; liability for damages.
- 60-3209. Data not considered public record; protection orders; effect.

60-3201 Act, how cited.

Sections 60-3201 to 60-3209 shall be known and may be cited as the Automatic License Plate Reader Privacy Act.

Source: Laws 2018, LB93, § 1.
Effective date July 19, 2018.

60-3202 Terms, defined.

For purposes of the Automatic License Plate Reader Privacy Act:

(1) Alert means data held by the Department of Motor Vehicles, each criminal justice information system maintained in this state, the Federal Bureau of Investigation National Crime Information Center, the Federal Bureau of Investigation Kidnappings and Missing Persons list, the Missing Persons Information Clearinghouse established under section 29-214.01, and license plate numbers that have been manually entered into the automatic license plate reader system upon a law enforcement officer's determination that the vehicles or individuals associated with the license plate numbers are relevant and material to an ongoing criminal or missing persons investigation;

(2) Automatic license plate reader system means one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable data;

(3) Captured plate data means global positioning system coordinates, date and time information, photographs, license plate numbers, and any other data captured by or derived from any automatic license plate reader system;

(4) Governmental entity means a department or agency of this state, the federal government, another state, or a political subdivision or an individual acting for or as an agent of any of such entities; and

(5) Secured area means a place, enclosed by clear boundaries, to which access is limited and not open to the public and into which entry is only obtainable through specific access-control points.

Source: Laws 2018, LB93, § 2.
Effective date July 19, 2018.

60-3203 Prohibited acts; exceptions.

(1) Except as otherwise provided in this section or in section 60-3204, the use of an automatic license plate reader system by a governmental entity is prohibited.

(2) An automatic license plate reader system may be used when such use is:

(a) By a law enforcement agency of a governmental entity for the purpose of identifying:

(i) Outstanding parking or traffic violations;

(ii) An unregistered or uninsured vehicle;

(iii) A vehicle in violation of the vehicle equipment requirements set forth under the Nebraska Rules of the Road;

(iv) A vehicle in violation of any other vehicle registration requirement;

(v) A vehicle registered to an individual for whom there is an outstanding warrant;

(vi) A vehicle associated with a missing person;

(vii) A vehicle that has been reported as stolen; or

(viii) A vehicle that is relevant and material to an ongoing criminal investigation;

(b) By a parking enforcement entity for regulating the use of a parking facility;

(c) For the purpose of controlling access to a secured area;

(d) For the purpose of electronic toll collection; or

(e) To assist weighing stations in performing their duties under section 60-1301.

Source: Laws 2018, LB93, § 3.

Effective date July 19, 2018.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3204 Retention of captured plate data; limitation; updates; use; limitations.

(1) A governmental entity shall not retain captured plate data obtained under subsection (2) of section 60-3203 for more than one hundred eighty days unless the captured plate data is:

(a) Evidence related to a purpose listed in subsection (2) of section 60-3203;

(b) Subject to a preservation request under subsection (1) of section 60-3205; or

(c) The subject of a warrant, subpoena, or court order.

(2) Any governmental entity that uses automatic license plate reader systems pursuant to subsection (2) of section 60-3203 must update such systems from the data bases used by the governmental entities enumerated in such subsection at the beginning of each law enforcement agency shift if such updates are available.

(3) Any governmental entity that uses automatic license plate reader systems pursuant to subsection (2) of section 60-3203 may manually query captured plate data only when a law enforcement officer determines that the vehicle or individuals associated with the license plate number are relevant and material

to an ongoing criminal or missing persons investigation subject to the following limitations:

(a) Any manual entry must document the reason for the entry; and

(b) Manual entries must be automatically purged at the end of each law enforcement agency shift, unless the criminal investigation or missing persons investigation remains ongoing.

Source: Laws 2018, LB93, § 4.

Effective date July 19, 2018.

60-3205 Operator; preserve data; written sworn statement; court order for disclosure; disclosures authorized.

(1)(a) An operator of an automatic license plate reader system shall, upon the request of a governmental entity or a defendant in a criminal case, take all necessary steps to preserve captured plate data in its possession pending the issuance of a warrant, subpoena, or order of a court.

(b) A requesting governmental entity or defendant in a criminal case must specify in a written sworn statement:

(i) The particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(ii) The date or dates and timeframes for which captured plate data must be preserved.

(2) A governmental entity or defendant in a criminal case may apply for a court order for disclosure of captured plate data, which shall be issued by the court if the governmental entity or defendant in a criminal case offers specific and articulable facts showing there are reasonable grounds to believe the captured plate data is relevant and material to the criminal or civil action. Nothing in this subsection shall prevent the governmental entity from disclosing any captured plate data: (a) To the parties to a criminal or civil action; (b) for administrative purposes; (c) to alert the public of an emergency situation; or (d) relating to a missing person.

Source: Laws 2018, LB93, § 5.

Effective date July 19, 2018.

60-3206 Governmental entity; duties; report; contents.

Except as otherwise provided in subdivision (3)(b) of this section, any governmental entity that uses an automatic license plate reader system shall:

(1) Adopt a policy governing use of the system and conspicuously post the policy on the governmental entity's Internet web site or, if no web site is available, in its main office;

(2) Adopt a privacy policy to ensure that captured plate data is not shared in violation of the Automatic License Plate Reader Privacy Act or any other law and conspicuously post the privacy policy on its Internet web site or, if no web site is available, in its main governmental office; and

(3)(a) Report annually to the Nebraska Commission on Law Enforcement and Criminal Justice on its automatic license plate reader practices and usage. The report shall also be conspicuously posted on the governmental entity's Internet web site or, if no web site is available, in its main office. The report shall

include the following information, if captured by the automatic license plate reader system:

(i) The names of each list against which captured plate data was checked, the number of confirmed matches, and the number of matches that upon further investigation did not correlate to an alert; and

(ii) The number of manually-entered license plate numbers under subsection (3) of section 60-3204, the number of confirmed matches, and the number of matches that upon further investigation did not correlate to an alert.

(b) The reporting requirements of this subsection shall not apply to governmental entities using an automatic license plate reader system pursuant to subdivisions (2)(b) through (e) of section 60-3203.

Source: Laws 2018, LB93, § 6.

Effective date July 19, 2018.

60-3207 Use of captured plate data and related evidence; prohibited.

No captured plate data and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this state, or a political subdivision thereof, if the disclosure of that information would be in violation of the Automatic License Plate Reader Privacy Act.

Source: Laws 2018, LB93, § 7.

Effective date July 19, 2018.

60-3208 Violation of act; liability for damages.

Any person who violates the Automatic License Plate Reader Privacy Act shall be liable for damages that proximately cause injury to the business, person, or reputation of another individual or entity.

Source: Laws 2018, LB93, § 8.

Effective date July 19, 2018.

60-3209 Data not considered public record; protection orders; effect.

(1) Captured plate data held by a governmental entity is not considered a public record for purposes of sections 84-712 to 84-712.09 and shall only be disclosed to the person to whom the vehicle is registered or with the prior written consent of the person to whom the vehicle is registered or pursuant to a disclosure order under subsection (2) of section 60-3205 or as the result of a match pursuant to subsection (2) of section 60-3203.

(2) Upon the presentation to a governmental entity of a valid, outstanding protection order pursuant to the Protection from Domestic Abuse Act, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, or section 28-311.09 or 28-311.10 protecting the driver of a vehicle jointly registered with or registered solely in the name of the individual against whom the order was issued, captured plate data may not be disclosed except pursuant to a disclosure order under subsection (2) of section 60-3205 or as the result of a match pursuant to subsection (2) of section 60-3203.

Source: Laws 2018, LB93, § 9.

Effective date July 19, 2018.

Cross References

Protection from Domestic Abuse Act, see section 42-901.

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, see section 42-932.

ARTICLE 33

AUTOMATED-DRIVING-SYSTEM-EQUIPPED VEHICLES

Section

- 60-3301. Terms, defined.
- 60-3302. Driverless-capable vehicle; operation; conditions.
- 60-3303. Automated-driving-system-equipped vehicle; operation; authorized; provisions applicable; department; duties.
- 60-3304. Proof of financial responsibility.
- 60-3305. On-demand driverless-capable vehicle network; authorized.
- 60-3306. Nebraska Rules of the Road; how construed.
- 60-3307. Crash or collision; duties.
- 60-3308. Provisions of law governing vehicles and systems; limit on state and political subdivisions.
- 60-3309. Sections, how construed with respect to highways.
- 60-3310. Sections, how construed with respect to liability.
- 60-3311. Title and registration provisions; department; powers.

60-3301 Terms, defined.

For purposes of sections 60-3301 to 60-3311, the following definitions apply:

(1) Automated driving system means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis regardless of whether it is limited to a specific operational design domain, if any;

(2) Automated-driving-system-equipped vehicle means a motor vehicle equipped with an automated driving system;

(3) Conventional human driver means a human person who manually exercises in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a motor vehicle;

(4) Department means the Department of Motor Vehicles;

(5) Driverless-capable vehicle means a motor vehicle equipped with an automated driving system capable of performing all aspects of the dynamic driving task within its operational design domain, if any, including achieving a minimal risk condition, without any intervention or supervision by a conventional human driver;

(6) Dynamic driving task means all of the real-time operational and tactical functions required to operate a motor vehicle within its specific operational design domain, if any, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints;

(7) Minimal risk condition means a reasonably safe state to which an automated driving system brings an automated-driving-system-equipped vehicle upon experiencing a performance-related failure of the vehicle's automated driving system that renders the vehicle unable to perform the entire dynamic driving task, such as bringing the vehicle to a complete stop and activating the hazard lamps;

(8) On-demand driverless-capable vehicle network means a transportation service network that uses a software application or other digital means to dispatch driverless-capable vehicles for purposes of transporting persons or

goods, including for-hire transportation, transportation for compensation, and public transportation; and

(9) Operational design domain means a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed range, environmental conditions such as weather and time of day, and other domain constraints.

Source: Laws 2018, LB989, § 1.

Effective date July 19, 2018.

60-3302 Driverless-capable vehicle; operation; conditions.

A driverless-capable vehicle may operate on the public roads of this state without a conventional human driver physically present in the vehicle, as long as the vehicle meets the following conditions:

(1) The vehicle is capable of achieving a minimal risk condition if a malfunction of the automated driving system occurs that renders the system unable to perform the entire dynamic driving task within its intended operational design domain, if any; and

(2) While in driverless operation, the vehicle is capable of operating in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state that govern the performance of the dynamic driving task, including, but not limited to, safely negotiating railroad crossings, unless an exemption has been granted by the department. The department shall consult with the railroad companies operating in this state when considering an exemption that affects vehicle operations at railroad crossings.

Source: Laws 2018, LB989, § 2.

Effective date July 19, 2018.

60-3303 Automated-driving-system-equipped vehicle; operation; authorized; provisions applicable; department; duties.

(1) Notwithstanding any other provision of law, the operation on the public roads of this state of an automated-driving-system-equipped vehicle capable of performing the entire dynamic driving task within its operational design domain while a conventional human driver is present is lawful. Such operation shall be subject to the Nebraska Rules of the Road, as applicable. In addition, the conventional human driver shall be licensed as required under the Motor Vehicle Operator's License Act, shall remain subject to the Nebraska Rules of the Road, shall operate the automated-driving-system-equipped vehicle according to the manufacturer's requirements and specifications, and shall regain manual control of the vehicle upon the request of the automated driving system.

(2) The automated driving system feature, while engaged, shall be designed to operate within its operational design domain in compliance with the Nebraska Rules of the Road, including, but not limited to, safely negotiating railroad crossings, unless an exemption has been granted by the department. The department shall consult with the railroad companies operating in this state when considering an exemption that affects vehicle operations at railroad crossings.

Source: Laws 2018, LB989, § 3.

Effective date July 19, 2018.

Cross References

Motor Vehicle Operator's License Act, see section 60-462.
Nebraska Rules of the Road, see section 60-601.

60-3304 Proof of financial responsibility.

Before an automated-driving-system-equipped vehicle may operate on the public roads of this state, a person shall submit proof of financial responsibility satisfactory to the department that the automated-driving-system-equipped vehicle is covered by insurance or proof of self-insurance that satisfies the requirements of the Motor Vehicle Safety Responsibility Act.

Source: Laws 2018, LB989, § 4.
Effective date July 19, 2018.

Cross References

Motor Vehicle Safety Responsibility Act, see section 60-569.

60-3305 On-demand driverless-capable vehicle network; authorized.

(1) Notwithstanding any other provision of law, a person may operate an on-demand driverless-capable vehicle network. Such a network may provide transportation of persons or goods, including:

- (a) For-hire transportation, including transportation for multiple passengers who agree to share the ride in whole or in part; and
- (b) Public transportation.

(2) An on-demand driverless-capable vehicle network may connect passengers to driverless-capable vehicles either (a) exclusively or (b) as part of a digital network that also connects passengers to human drivers who provide transportation services, consistent with applicable law, in vehicles that are not driverless-capable vehicles.

Source: Laws 2018, LB989, § 5.
Effective date July 19, 2018.

60-3306 Nebraska Rules of the Road; how construed.

Subject to section 60-3302, the Nebraska Rules of the Road shall not be construed as requiring a conventional human driver to operate a driverless-capable vehicle that is being operated by an automated driving system, and the automated driving system of such vehicle, when engaged, shall be deemed to fulfill any physical acts required of a conventional human driver to perform the dynamic driving task.

Source: Laws 2018, LB989, § 6.
Effective date July 19, 2018.

Cross References

Nebraska Rules of the Road, see section 60-601.

60-3307 Crash or collision; duties.

In the event of a crash or collision:

- (1) The automated-driving-system-equipped vehicle shall remain on the scene of the crash or collision and otherwise comply with sections 60-696 to 60-698; and

(2) The owner of the automated-driving-system-equipped vehicle, if capable, or a person on behalf of the automated-driving-system-equipped vehicle owner, shall report any crash or collision as required by section 60-698.

Source: Laws 2018, LB989, § 7.
Effective date July 19, 2018.

60-3308 Provisions of law governing vehicles and systems; limit on state and political subdivisions.

(1) Automated-driving-system-equipped vehicles and automated driving systems are governed exclusively by sections 60-3301 to 60-3311. The department is the sole and exclusive state agency that may implement sections 60-3301 to 60-3311.

(2) The state or any political subdivision shall not impose requirements, including performance standards, specific to the operation of automated-driving-system-equipped vehicles, automated driving systems, or on-demand driverless-capable vehicle networks in addition to the requirements of sections 60-3301 to 60-3311.

(3) The state or any political subdivision thereof shall not impose a tax or other requirements on an automated-driving-system-equipped vehicle, an automated driving system, or an on-demand driverless-capable vehicle network, where such tax or other requirements relate specifically to the operation of automated-driving-system-equipped vehicles.

Source: Laws 2018, LB989, § 8.
Effective date July 19, 2018.

60-3309 Sections, how construed with respect to highways.

Nothing in sections 60-3301 to 60-3311 shall be construed to require the State of Nebraska or any political subdivision thereof to plan, design, construct, maintain, or modify any highway, as defined in section 60-624, for the accommodation of an automated-driving-system-equipped vehicle or a driverless-capable vehicle.

Source: Laws 2018, LB989, § 9.
Effective date July 19, 2018.

60-3310 Sections, how construed with respect to liability.

Nothing in sections 60-3301 to 60-3311 shall be construed to provide greater liability than is already allowed under the Political Subdivisions Tort Claims Act or the State Tort Claims Act.

Source: Laws 2018, LB989, § 10.
Effective date July 19, 2018.

Cross References

Political Subdivisions Tort Claims Act, see section 13-901.
State Tort Claims Act, see section 81-8,235.

60-3311 Title and registration provisions; department; powers.

The department is authorized to title and register, pursuant to the Motor Vehicle Certificate of Title Act and the Motor Vehicle Registration Act, automated-driving-system-equipped vehicles and driverless-capable vehicles that do not

meet applicable federal motor vehicle safety standards but which have been granted an exemption by the National Highway Traffic Safety Administration.

Source: Laws 2018, LB989, § 11.

Effective date July 19, 2018.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

Motor Vehicle Registration Act, see section 60-301.