

LEGISLATIVE BILL 234

Approved by the Governor May 17, 1983

Introduced by Labeledz, 5; Wiitala, 31; Pirsch, 10;
Remmers, 1; Doyle, 14; Sieck, 24;
H. Peterson, 35

AN ACT to amend sections 60-106, 60-1401.02, 60-1403.01, and 60-1417.01, Reissue Revised Statutes of Nebraska, 1943, and sections 60-115, 60-302, and 60-315, Revised Statutes Supplement, 1982, relating to motor vehicles; to change provisions relating to registration and certificates of title; to provide fees; to provide for inspections; to provide procedures for the training and certification of inspectors; to create a fund; to provide and modify duties and powers; to change fees; to define terms; and to repeal the original sections.

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

Section 1. That section 60-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-106. (1) Application for a certificate of title shall be made upon a form prescribed by section 60-114, and shall be sworn to before a notary public or other officer empowered to administer oaths.

(2) Such application shall be filed with the county clerk of the county in which the applicant resides, if the applicant is a resident of this state or, if a nonresident, in the county in which the transaction is consummated, and shall be accompanied by the fee prescribed in this act.

(3) If a certificate of title has previously been issued for such motor vehicle in this state, the application for a new certificate of title shall be accompanied by such certificate of title duly assigned, unless otherwise provided for in this act. If a certificate of title has not previously been issued for such motor vehicle in this state, such application, unless otherwise provided for in this act, shall be accompanied by a manufacturer's or importer's certificate, as provided for in this act, a duly

certified copy thereof, a certificate of title, a court order issued by a court of record, manufacturer's certificate of origin, or an assigned registration certificate, if the law of the other state from which such motor vehicle was brought into this state does not have a certificate of title law. The county clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(4) The county clerk 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 of motor vehicles in his or her office. If he or she is satisfied that the applicant is the owner of such motor vehicle and that the application is in the proper form, the county clerk shall issue a certificate of title over his or her signature and sealed with his or her seal, but not otherwise.

(5) In the case of the sale of a motor vehicle, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that, for titles to be held by husband and wife, applications may be accepted by the clerk upon the signature of either one as a signature for himself or herself and as agent for his or her spouse.

(6) In all cases of transfers of motor vehicles, commercial trailers, semitrailers, or cabin trailers, the application for a certificate of title shall be filed within fifteen days after the delivery of such motor vehicles, commercial trailers, semitrailers, or cabin trailers. Licensed ; Provided, licensed dealers need not apply for certificates of title for motor vehicles, commercial trailers, semitrailers, or cabin trailers in stock or acquired for stock purposes, but upon transfer of the same they shall give the transferee a reassignment of the certificate of title on such motor vehicle, commercial trailer, semitrailer, or cabin trailer or an assignment of a manufacturer's or importer's certificate. Such ; and provided further, that such reassignment by a licensed dealer shall does not apply to foreign certificates of title, and such dealer must shall obtain a Nebraska certificate of title in the name of the dealer before transferring such motor vehicle, commercial trailer, semitrailer, or cabin trailer.

(7) An application for a certificate of title shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the vehicle is a motorcycle as defined in section 60-301, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, or an importer's statement of

origin or (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09. Such statement shall be furnished by the county sheriff of the county in which application is made or by any other holder of a current certificate of training and shall be in a format as determined by the department. For each inspection conducted by a peace officer, a fee of ten dollars shall be paid to the county treasurer and for each inspection conducted by an individual other than a peace officer a fee of five dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading 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 clerk shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, or if there is reason to believe further inspection is necessary, 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. If the person performing the inspection is not a peace officer, the sheriff shall provide, or cause to be provided, the National Crime Information Center and the Nebraska Crime Information Service record check. The person performing the inspection shall notify the sheriff if there is reason to believe further inspection is necessary or if the vehicle is not the vehicle described by the ownership records and a peace officer shall complete the inspection and initiate such further investigation as may be warranted. If there is cause to believe that odometer fraud exists, notification shall be given to the Department of Motor Vehicles. 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. In the case of an assembled vehicle such 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, as defined in section 19 of

this act.

Sec. 2. For purposes of sections 60-106 and 2 to 12 of this act, unless the context otherwise requires:

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

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

(3) Inspection shall mean an identification inspection conducted pursuant to section 60-106;

(4) Licensee shall mean a person having a current license pursuant to Chapter 60, article 14, including all officers, stockholders, partners, and other persons having a financial interest in the licensee; and

(5) Sponsoring licensee shall mean a licensee whose chief officer holds a current certificate of training and who employs an applicant for a certificate or a certificate holder.

Sec. 3. There is hereby created the Title Security and Vehicle Theft Prevention Fund which shall be maintained by the State Treasurer as a cash fund and shall be administered by the Director of Motor Vehicles.

The fund shall be used to defray the expenses of training personnel, as determined by the Department of Motor Vehicles, in title document examination, vehicle identification, fraud and theft investigation, and to defray department expenses arising pursuant to sections 2 to 12 of this act including those incurred for printing and distribution of forms, personal services, hearings, and similar administrative functions. Such personnel may include, but shall not be limited to, county clerks, investigative personnel of the Nebraska Motor Vehicle Industry Licensing Board, and peace officers mentioned in section 39-6,192. Such training program shall be administered by the department. The department's responsibility for providing for training shall begin January 1, 1984. The Director of Motor Vehicles may utilize the Nebraska Law Enforcement Training Center or the assistance of the Nebraska State Patrol to accomplish the training requirements of sections 2 to 12 of this act. The department may make expenditures from the fund necessary to implement such training.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 4. The sheriff shall designate a sufficient number of persons to become certified to assure completion of inspections with reasonable promptness.

Sec. 5. Except as provided in section 12 of this act, no person shall conduct an inspection unless

he or she is the holder of a current certificate of training issued by the Department of Motor Vehicles. The certificate of training shall be issued upon completion of a course of instruction, approved by the department, in the identification of stolen and altered vehicles. The director may require an individual to take such additional training as he or she deems necessary in order to maintain a current certificate of training.

Sec. 6. The sheriff may designate any individual who is a peace officer, licensee, or an employee of a licensee to assist in accomplishing inspections. Upon designation the person shall request approval for training from the director. Any person requesting approval for training shall submit a written application to the department. Such application shall include the following information: (1) The name and address of the applicant, (2) the name and address of the sponsoring licensee, if the applicant is not a peace officer, (3) the name and address of the agency employing the applicant and the name of the agency head, if the applicant is a peace officer, and (4) such biographical information as the director may require to facilitate an investigation of the applicant's qualifications and character.

Sec. 7. (1) Upon receipt of an application for training pursuant to section 6 of this act the department may inquire into the qualifications of the applicant and may request the Nebraska State Patrol to inquire into the background of the applicant. If the applicant is a licensee the chief officer of such licensee shall serve as the individual making application, except that the inquiry into qualifications and background may, at the discretion of the director, include any person who is an officer, stockholder, partner, or has any other financial interest in the licensee.

(2) The department shall not approve any applicant who:

(a) If the applicant is a peace officer, licensee, or an employee of a sponsoring licensee, has (i) knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers, or parts therefor, (ii) 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, or (iii) made a false material statement in his or her application;

(b) If the applicant is a licensee, (i) has, within the previous five years, violated subdivision (3), (6) through (9), (13), (14), (15), (17), or (18) of section 60-1411.02, (ii) has, within the previous five

years, had a license issued under Chapter 60, article 14, suspended for violation of any provision enumerated in subdivision (b)(i) of this subsection, (iii) has had his or her license, issued pursuant to Chapter 60, article 14, revoked for any reason, or (iv) does not have a permanent business location with adequate inspection facilities including a hoist; or

(c) If the applicant is an employee of a sponsoring licensee, is employed by a licensee whose chief officer does not hold a current certificate of training or who does not have a permanent business location with adequate inspection facilities including a hoist.

Sec. 8. The department may, after notice and a hearing, revoke a certificate issued pursuant to sections 2 to 12 of this act. The department shall only be required to hold a hearing if the hearing is requested in writing within fifteen days after notice of the proposed revocation is delivered by the department. The department may revoke a certificate for any reason for which an applicant may be denied approval for training pursuant to section 7 of this act. The department shall revoke the certificate of any employee of a sponsoring licensee if such employee ceases employment with the sponsoring licensee whose name appears on the application submitted to the department. The department may revoke a certificate if the holder fails to keep a certificate current by taking any additional training the department may require. The department may revoke a certificate if the department finds that the holder is incompetent. A rebuttable presumption of incompetence shall arise from a finding by the department or a court of competent jurisdiction that the certificate holder has issued a statement of inspection for a stolen vehicle.

Sec. 9. No individual, other than a peace officer, shall attend training funded under sections 2 to 12 of this act unless such individual has been designated by a sheriff and approved by the department.

Sec. 10. A certificate holder who is an employee of a licensee shall not inspect any vehicle which is not owned by his or her sponsoring licensee. A certificate holder who is a licensee shall not inspect any vehicle which he or she does not own.

Sec. 11. The director shall, from time to time, provide each county clerk and sheriff with a list of persons holding current certificates of training.

Sec. 12. Prior to July 1, 1984, any individual who has been designated by a sheriff and approved for training by the department may conduct identification inspections even though he or she has not received a certificate of training.

Sec. 13. That section 60-115, Revised

Statutes Supplement, 1982, be amended to read as follows:

60-115. The clerks of the various counties shall charge a fee of six five dollars for each replacement or duplicate copy of a certificate of title, and the duplicate copy issued which shall show only those unreleased liens of record. A fee of four three dollars shall be charged for refiling a certificate of title pursuant to section 60-107.01. Such fees shall be retained by the county. In addition to the foregoing fees, the clerks of the various counties shall charge a fee of six five dollars for each certificate of title, and a fee of three dollars for each notation of any lien on a certificate of title. The clerks of the various counties shall retain for the county three dollars and twenty-five cents of the six five dollars charged for each certificate of title, and two dollars for each notation of lien. Two The remaining two dollars charged for the certificate of title and the remaining one dollar charged for notation of any lien on a certificate of title shall be paid to the State Treasurer to be credited to the state General Fund. Twenty-five cents of the fee for a certificate of title shall be paid to the State Treasurer to be credited to a fund to be administered by the Consumer Protection Division of the Attorney General's office at the direction of the Attorney General for the purpose of odometer fraud investigation and prosecution. The remaining fifty cents charged for the certificate of title shall be paid to the State Treasurer to be credited to the Title Security and Vehicle Theft Prevention Fund created in section 3 of this act. The clerks of the various counties shall remit all funds due the State Treasurer under this act monthly and not later than the fifth day of the month following the collection thereof. The clerks of the various counties shall remit fees not due the State of Nebraska to their respective county treasurers who shall credit such fees so remitted to the county general fund.

Sec. 14. When an insurance company acquires a 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 clerk, and make application for a salvage certificate of title which shall be assigned when the company transfers ownership. An insurer shall take title to a vehicle for which a total loss settlement is made.

As used in this section, salvage certificate of title shall mean a certificate issued for a vehicle which cannot be operated or has otherwise become unusable for transportation due to malfunction beyond reasonable maintenance or repair. Such certificate

shall be administered in the same manner and for the same fee as provided for a certificate of title in sections 60-106 to 60-117. When a salvage certificate of title is surrendered for a certificate of title, the application for a certificate of title shall be accompanied by a statement of inspection as provided in section 60-106.

Sec. 15. Any person who acquires ownership of a salvaged vehicle, for which he or she does not obtain a salvage certificate of title, as defined in section 14 of this act, shall surrender the certificate of title to the county clerk and make application for a salvage certificate of title within fifteen days of acquisition, or prior to the sale or resale of the vehicle or any major component part, as defined in section 19 of this act, of such vehicle, or use of any major component part of the vehicle, whichever occurs earlier. As used in this section, salvaged vehicle shall mean a vehicle which has been wrecked or damaged or has otherwise become unusable for transportation due to malfunction beyond reasonable maintenance or repair.

Sec. 16. That section 60-302, Revised Statutes Supplement, 1982, be amended to read as follows:

60-302. No motor vehicle, trailer, semitrailer, or cabin trailer, unless otherwise expressly provided, shall be operated on the highways of this state unless such vehicle is registered in accordance with the provisions of this act. Every owner of a vehicle required to be registered shall make application for registration to the county treasurer of the county in which the vehicle has tax situs, as defined in section 77-1202. Such ; Provided, that such application shall be a copy of a certificate of title or, in the case of a renewal of a registration, such application shall be the previous registration period's certificate. A salvage certificate of title, as defined in section 14 of this act, shall not be valid for registration purposes. Any nonresident owner, who desires to register a vehicle or vehicles in this state, shall register in the county where the vehicle is domiciled or where the owner conducts a bona fide business. Each new application shall contain, in addition to such other information as may be required by the department, the name and post office post-office address of the applicant, a description of the vehicle, including the color, the manufacturer, the identification number, and the weight of the vehicle required by this act. With such application, the applicant shall pay the proper registration fee, as provided in sections 60-305.08 to 60-342. The county treasurer or his or her agent shall collect in addition to other registration fees, the sum of fifty cents for

each and every certificate issued, which fee shall be transmitted by the county treasurer to the State Treasurer and shall, by the State Treasurer, be credited to the Highway Trust Fund.

Sec. 17. That section 60-315, Revised Statutes Supplement, 1982, be amended to read as follows:

60-315. (1) (a) Upon transfer of ownership of any motor vehicle or cabin trailer as defined in section 60-301, (b) or in case of loss of possession because of fire, theft, dismantlement, or junking, its or (c) when a salvage certificate of title is issued, the registration shall expire and the registered owner may by returning the registration certificate and number plates and, when appropriate, the renewal tabs, and after making affidavit to the county treasurer of such transfer or loss, receive a refund of that part of the unused fees on passenger vehicles, trucks, and cabin trailers based on the number of unexpired months remaining in the registration period, except that when such vehicle or trailer is transferred within the same calendar month in which acquired, no refund shall be allowed for such month. Application for registration or for reassignment of number plates and, when appropriate, renewal tabs to another motor vehicle or cabin trailer shall be made within fifteen days of the date of purchase.

(2) Whenever the registered owner files an application with the county treasurer showing that a motor vehicle is disabled and has been removed from service, the registered owner may, by returning the registration certificate and number plates and, when appropriate, the renewal tabs, or, in the case of the unavailability of such certificate or certificates, number plates, or tabs, then by making an affidavit to the 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. When the owner registers a replacement vehicle at the time of filing such affidavit, the credit may be immediately applied against the registration fee for the replacement vehicle. When no such replacement vehicle 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 and furnish a certificate therefor to the owner. When such motor vehicle is removed from service within the same month in which it was registered, no credit shall be allowed for such month. Such credit may be applied against registration fees for new or replacement vehicles incurred within one year

after cancellation of registration of the motor vehicle for which the credit was allowed. When any such vehicle is reregistered within the same registration year in which its registration has been canceled, the fee shall be that portion of the registration fee for the remainder of the registration year.

Sec. 18. That section 60-1401.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1401.02. As used in this act, and sections 19 and 22 to 27 of this act unless the context otherwise requires:

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

(2) Motor vehicle dealer shall mean any person engaged in the business of selling or exchanging new or used motor vehicles and trailers as defined in this act, and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used motor vehicles in any one calendar year shall be deemed to be a motor vehicle dealer and subject to the provisions of this act;

(3) Trailer dealer shall mean any person engaged in the business of selling or exchanging new or used trailers, and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used trailers in any one calendar year shall be deemed to be a trailer dealer and subject to the provisions of this act;

(4) Wrecker or salvage dealer shall mean any person who buys or otherwise acquires one three or more motor vehicles, motorcycles, or trailers solely for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap; and selling or otherwise disposing of the parts and accessories thereof;

(5) Motor vehicle shall mean any vehicle for which evidence of title is required as a condition precedent to registration under the laws of this state but shall not include trailers;

(6) Used motor vehicle shall mean every motor vehicle which has been sold, bargained, exchanged, given away, or for which title has been transferred from the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer. ; Provided, that a new motor vehicle shall not be considered as a used motor vehicle until it has been placed in a bona fide consumer use, notwithstanding the number of transfers of such motor vehicle. Bona fide ; and bona fide consumer use shall mean actual operation by an owner who acquired the vehicle for use in business or for pleasure purposes and who has been granted a certificate of title on such motor vehicle and has

registered such motor vehicle, all in accordance with the laws of the residence of the owner;

(7) New motor vehicle shall mean all motor vehicles which are not included within the definition of a used motor vehicle in subdivision (6) of this section;

(8) Trailer shall mean trailers and semitrailers, as defined in section 60-301, which are required to be licensed as commercial trailers, other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways and so constructed as not to be attached to real estate and to permit the vehicle to be used for human habitation by one or more persons, and camping trailers, ~~slide in~~ slide-in campers, ~~fold down~~ fold-down campers, and ~~fold down~~ fold-down tent trailers. Machinery ; Provided, that machinery and equipment to which wheels are attached and designed for being drawn by a motor vehicle shall be excluded from the provisions of this act;

(9) Motorcycle dealer shall mean any person engaged in the business of selling or exchanging new or used motorcycles as defined in this section and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used motorcycles in any one calendar year shall be deemed to be a motorcycle dealer and subject to the provisions of this act;

(10) Motorcycle shall mean 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;

(11) Auction shall mean a public sale of motor vehicles and trailers of types required to be registered in this state sold or offered for sale at which the price offered is increased by the prospective buyers who bid against one another, the highest bidder becoming the purchaser;

(12) Auction dealer shall mean any person engaged in the business of selling motor vehicles and trailers as defined in subdivision (11) of this section. The ; Provided, that the holding of a farm auction or an occasional motor vehicle, trailer, or motorcycle dealer's auction of not more than two auctions in a calendar year shall not be construed as constituting an auction dealer subject to the provisions of this act;

(13) Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer shall mean any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the

dealer's original license, but which is located within the city or county described in such original license;

(14) Motor vehicle, motorcycle, or trailer salesperson salesman shall mean any person who, for a salary, commission, or compensation of any kind, is employed directly by only one specified licensed Nebraska motor vehicle dealer, motorcycle dealer, or trailer dealer, except when the salesman salesperson is working for two or more dealerships with common ownership, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers. A; provided, a person owning any part of more than one dealership may be a salesperson salesman for each of such dealerships. Common ownership is defined for the purpose of this section to mean that there is at least an eighty per cent interest in each dealership by one or more persons having ownership in such dealership;

(15) Manufacturer shall mean any person, resident or nonresident of this state, who is engaged in the business of distributing, manufacturing, or assembling new motor vehicles, trailers, or motorcycles, and also shall have the same meaning as the term franchisor as used in this act;

(16) Factory representative shall mean a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers, or by a factory branch, for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers, to, or for supervising or contacting, its dealers or prospective dealers in this state;

(17) Distributor shall mean a person, resident or nonresident of this state, who in whole or in part sells or distributes new motor vehicles, trailers, or motorcycles to dealers or who maintains distributors or representatives who sell or distribute motor vehicles, trailers, or motorcycles to dealers, and shall also have the same meaning as the term franchisor, as used in this act;

(18) Finance company shall mean any person engaged in the business of financing sales of motor vehicles, motorcycles, or trailers, or purchasing or acquiring promissory notes, secured instruments, or other documents whereby such motor vehicles, motorcycles, or trailers are pledged as security for payment of obligations arising from such sales, and who may find it necessary to engage in the activity of repossession and the sale of the motor vehicles, motorcycles, or trailers so pledged;

(19) Franchise shall mean a contract between two or more persons when all of the following conditions are included:

(a) A commercial relationship of definite

duration or continuing indefinite duration is involved;

(b) The franchisee is granted the right to offer and sell motor vehicles manufactured or distributed by the franchisor;

(c) The franchisee, as an independent business, constitutes a component of franchisor's distribution system;

(d) The operation of franchisee's business is substantially associated with the franchisor's trade-mark trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor; and

(e) The operation of the franchisee's business is substantially reliant on franchisor for the continued supply of motor vehicles, parts, and accessories;

(20) Franchisee shall mean a person who receives motor vehicles from the franchisor under a franchise and who offers and sells such motor vehicles to the general public;

(21) Franchisor shall mean a person who manufactures or distributes motor vehicles and who may enter into a franchise;

(22) Community shall mean a the franchisee's area of responsibility as stipulated in the franchise;

(23) Consumer care shall mean the performance, for the public, of necessary maintenance and repairs to motor vehicles;

(24) Sale, selling, and equivalent expressions shall mean the attempted act or acts either as principal, agent, salesman salesperson, or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering or attempting to negotiate the sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing thereof with a right or option to purchase under the terms of the lease;

(25) Established place of business shall mean a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted at all reasonable hours by the public. The established place of business shall have the following facilities: (a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by the board's representatives at all

reasonable hours any peace officer or investigator employed or designated by the board; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business, or in lieu of such repair facilities the licensee may enter into a contract for the provision of such service and file a copy thereof with the board and shall furnish to each buyer a written statement as to where such service will be provided; and (d) an operating telephone connected with a public telephone exchange and located on the premises of the established place of business with a telephone number listed by the public telephone exchange and available to the public. A ; Provided, that a mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair facilities for trailers, as defined in this act. The ; and provided further, that the above requirements shall not apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license, except that such place of business shall have a sound and well-maintained sign which is legible from a public road and displayed with letters of not less than eight inches in height identifying such supplemental place of business and inspections shall be allowed as provided in subdivision (a) of this subsection;

(26) Retail, when used to describe a sale, shall mean a sale to any person other than a licensed dealer of any kind within the definitions of this section;

(27) Factory branch shall mean a branch office maintained in this state, by a person who manufactures, assembles, or distributes motor vehicles, motorcycles, or trailers, for the sale of such motor vehicles, motorcycles, or trailers to distributors or dealers or for directing or supervising, in whole or in part, its representatives in this state;

(28) Distributor representative shall mean a representative employed by a distributor or distributor branch for the same purpose as set forth in subdivision (16) of this section;

(29) Board shall mean the Nebraska Motor Vehicle Industry Licensing Board; and

(30) Scrap metal processor shall mean any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of

remelting or processing into scrap metal, or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles, motorcycles, or major component parts without obtaining a wrecker or salvage dealer license; and

(31) This act shall mean Chapter 60, article 14.

Nothing in this act shall apply to the State of Nebraska or any of its agencies or subdivisions. No insurance company, finance company, public utility company, fleet owner, or other person coming into possession of any motor vehicle, motorcycle, or trailer, as an incident to its regular business, who shall sell or exchange such motor vehicle, motorcycle, or trailer shall be considered a dealer as defined in this section.

Sec. 19. As used in sections 22 to 27 of this act, unless the context otherwise requires:

(1) Major component part shall mean an engine, with or without accessories, a transmission, cowl, door, frame, body, rear clip, or nose;

(2) Nose shall mean that portion of the body of a vehicle from the front to the firewall when acquired or transferred as a complete unit;

(3) Frame shall mean that portion of a vehicle upon which other components are affixed, such as the engine, body, or transmission;

(4) Body shall mean that portion of a vehicle which determines its shape and appearance and is attached to the frame; and

(5) Rear clip shall mean two or more of the following, all dismantled from the same vehicle: A quarter panel or fender, floor panel assembly, or trunk lid or gate.

Sec. 20. That section 60-1403.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1403.01. No person shall engage in the business as or serve in the capacity of, or act as a motor vehicle, trailer, or motorcycle dealer, wrecker or salvage dealer, salesman salesperson, auction dealer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in this state without being licensed by the board under the provisions of this act. No salesperson's salesman's license shall be issued to any person under the age of sixteen, and 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. A license issued under this act shall authorize the holder thereof to engage in the business or activities permitted by the license. The :

Provided, that the provisions of this section shall not apply to a licensed real estate salesperson salesman or broker who negotiates for sale, or sells a trailer for any individual who is the owner of not more than two trailers.

Sec. 21. That section 60-1417.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1417.01. When any dealer, except an auction dealer selling at auction, sells any unit on consignment, he or she shall must take title to such unit in his or her own name.

Sec. 22. Whenever any wrecker or salvage dealer who is required to be licensed pursuant to Chapter 60, article 14, acquires, after the effective date of this act, any material which is or may have been a vehicle or major component part, (1) the wrecker or salvage dealer shall determine by means of a driver's license, state identification card, certificate of employer's federal identification number, or license issued by the board, the identity of the person or firm from whom such material is acquired, and (2) each such wrecker or salvage dealer shall maintain a record of the following information:

(a) The name and address of the person or firm from whom such material was acquired;

(b) The means by which such person or firm was identified, including the number and issuing state of any driver's license or state identification card, the federal employer's identification number, or the licensee's number issued by the board;

(c) A general description of the material acquired, including, but not limited to, if available and identifiable, the year, make, model, manufacturer's vehicle identification number, and any other identifying marks or numbers, of any vehicle or major component part; and

(d) The date of acquisition, the purchase price, including the value and description of any material traded, and the type of payment, including the number of any check or draft issued or received in exchange for such material.

Sec. 23. Any wrecker or salvage dealer licensed by the board pursuant to Chapter 60, article 14, having possession on the effective date of this act of both a salvaged vehicle and a certificate of title for such vehicle, either issued to or assigned to such a person, shall not be required to obtain a salvage certificate of title, as defined in section 14 of this act, for such vehicle except upon transfer of the vehicle to a person not required to be licensed as a wrecker or salvage dealer by the board.

Sec. 24. Any wrecker or salvage dealer

required to be licensed by the board pursuant to Chapter 60, article 14, having possession on the effective date of this act of a major component part, shall include in his or her regular business records the information required to be recorded by subdivision (2) of section 22 of this act, to the extent such information is available.

Sec. 25. The records required by sections 22 to 24 of this act shall be maintained for any vehicle of any model year, but records of major component parts shall be maintained only with respect to major component parts of vehicles five model years or less in age on the date of acquisition. The board may by rule and regulation, exempt vehicles or major component parts of vehicles from all or a portion of the recordkeeping requirements, based upon the age of the vehicle or part if the board deems that such requirements would serve no substantial value.

Sec. 26. Every record required to be maintained pursuant to sections 22 to 24 of this act shall be maintained by such a wrecker or salvage dealer in the ordinary course of business and shall be maintained for five years at the principal place of business of such wrecker or salvage dealer, in such a manner that, upon request during regular business hours by any designated peace officer or investigator employed by the board, such wrecker or salvage dealer shall be able, within a reasonable time, not exceeding twelve hours, to furnish the information requested.

Sec. 27. Every record required to be maintained pursuant to sections 22 to 24 of this act shall be open to inspection by any designated peace officer or investigator employed by the board for inspection during regular business hours. Such inspection may include examination of the subject premises and contents for the purpose of determining the accuracy of the required records.

Sec. 28. (1) Any peace officer shall seize and take possession of any vehicle or any major component part, as defined in section 19 of this act, of a vehicle which the officer has probable cause to believe is stolen, or on which the identification number has been obscured, covered, removed, altered, or destroyed.

(2) Property seized pursuant to this section shall not be subject to a replevin action and:

(a) Shall be kept by the law enforcement agency which employs the officer who seized such property, or by its designee, for so long as it is needed as evidence in any trial; and

(b) When no longer required as evidence, such property shall be disposed of pursuant to sections 29-818 to 29-821.

(3) Property seized pursuant to this section solely on account of an obscured identification number may be restored to the owner or his or her designee without court order unless such property is required as evidence in a criminal action pending or contemplated in this or another jurisdiction.

Sec. 29. That original sections 60-106, 60-1401.02, 60-1403.01, and 60-1417.01, Reissue Revised Statutes of Nebraska, 1943, and sections 60-115, 60-302, and 60-315, Revised Statutes Supplement, 1982, are repealed.