

## LEGISLATIVE BILL 47

Approved by the Governor February 28, 1991

Introduced by Schellpeper, 18; Baack, 47

AN ACT relating to motor vehicles; to amend sections 60-130, 60-315, 60-320, 60-320.01, 60-1411.02, and 77-2703, Reissue Revised Statutes of Nebraska, 1943, and section 60-106, Revised Statutes Supplement, 1990; to extend the time to apply for a certificate of title and during which certain vehicles may be operated without registration; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 60-106, Revised Statutes Supplement, 1990, be amended to read as follows:

60-106. (1) Application for a certificate of title shall be made upon a form prescribed by the Department of Motor Vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. All applications shall be accompanied by the fee prescribed in section 60-115.

(2)(a) If the motor vehicle has tax situs in Nebraska, the application shall be filed with the county clerk of the county in which the vehicle has tax situs as defined in section 77-1240.

(b) If the applicant is a nonresident, the application shall be filed in the county in which the transaction is consummated.

(c) All applicants registering a vehicle pursuant to section 60-305.09 shall file the application for title to the vehicle with the Department of Motor Vehicles. The department shall deliver the certificate to the applicant if there are no liens on the vehicle. If there are any liens on the vehicle, the department shall deliver or mail the certificate of title to the holder of the first lien on the day of issuance. All certificates of title issued by the department shall be issued in the manner prescribed for the county clerk in section 60-107.

(3) If a certificate of title has previously been issued for the motor vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned

unless otherwise provided for in sections 60-102 to 60-117. If a certificate of title has not previously been issued for the motor vehicle in this state, the application, unless otherwise provided for in such sections, shall be accompanied by a manufacturer's or importer's certificate, as provided for in such sections, a duly certified copy thereof, a certificate of title, 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 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.

(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~~ thirty days after the delivery of such vehicle or trailer. A licensed dealer 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 such vehicle or trailer in stock or acquired for stock purposes, the licensed dealer shall give the transferee a reassignment of the certificate of title on such vehicle or trailer or an assignment of a manufacturer's or importer's certificate. If all reassignments on the certificate of title have been used, the licensed dealer shall obtain title in his or her name prior to any subsequent transfer.

(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 title sought is a salvage certificate of title as defined in section 60-129 or a nontransferable certificate of title provided for in section 60-131, (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 motor vehicle, or a nontransferable certificate of title issued under section 60-131, (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09, or (d) the vehicle is a cabin trailer. The statement that an identification inspection has been conducted 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 issued pursuant to section 60-121 and shall be in a format as determined by the Department of Motor Vehicles. The clerk may accept a certificate of inspection, approved by the Superintendent of Law Enforcement and Public Safety, from an officer of a state police agency of another state. For each inspection a fee of ten 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 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. 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 60-2601.

Sec. 2. That section 60-130, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-130. 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 60-129, shall surrender the certificate of title to the county clerk and make application for a salvage certificate of title within ~~fifteen~~ thirty days of acquisition, or prior to the sale or resale of the vehicle or any major component part, as defined in section 60-2601, 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. A title issued for a vehicle for which a salvage certificate of title has been issued shall so state that fact.

Sec. 3. That section 60-315, Reissue Revised Statutes of Nebraska, 1943, 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) in case of loss of possession because of fire, theft, dismantlement, or junking, (c) when a salvage certificate of title is issued, or (d) whenever a type or class of motor vehicle previously registered is subsequently declared by legislative act or court decision to be illegal or ineligible to be operated on the public roads and no longer subject to registration fees and taxes, 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, loss, legislative act, or court decision, 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 from the date of transfer or loss, the effective date of the legislative act, or the date the court decision is rendered, except that when such vehicle or trailer is transferred, the legislative act is enacted, or the court decision is rendered within the same calendar month in which acquired, no refund shall be allowed for such month. The registered owner shall make a claim for credit or refund of the unused fees within sixty days from the date of the loss or transfer, the effective date of the legislative act, or the date the court decision is rendered or shall be deemed to have forfeited his or her right to such refund. 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~~ thirty 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. 4. That section 60-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-320. (1) Each licensed motor vehicle dealer in motor vehicles or dealer in trailers trailer dealer as defined in section 60-1401.02 doing business in this state in lieu of the registering of each motor vehicle or trailer which such dealer owns of a type otherwise required to be registered, or any employee of such dealer, may (a) operate or move the same upon the streets and highways of this state solely for purposes of transporting, testing, demonstrating, or use in the ordinary course and conduct of his or her business as a motor vehicle or trailer dealer, including the personal or private use of such dealer, and including the personal or private use of any bona fide employee licensed pursuant to Chapter 60, article 14, or for transporting industrial equipment held by the licensee for purposes of demonstration, sale, rental, or delivery, or (b) sell the same without registering each such motor vehicle or trailer upon the condition that any such vehicle display thereon, in the manner prescribed in section 60-323, dealer number plates as provided for in subsection (3) of this section. Each licensed manufacturer as defined in section 60-1401.02, which actually manufactures or assembles motor vehicles, motorcycles, or trailers within this state, in lieu of the registering of 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 move the same upon the streets and 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, motorcycle, or trailer manufacturer, upon the condition that any such vehicle display thereon, in the manner prescribed in section 60-323, dealer number plates as provided for in subsection (3) of this section. In no event shall such plates be used on motor vehicles or trailers hauling other than automotive or trailer equipment, complete motor vehicles, semitrailers, or trailers which are inventory of such licensed dealer or manufacturer unless there is issued by the Department of Motor Vehicles a special permit specifying the hauling of other products.

(2) Motor vehicles or trailers owned by such dealer and bearing such dealer number plates may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period

of forty-eight hours. Motor vehicles or trailers owned and held for sale by such dealer and bearing such dealer number plates may be driven upon the streets and highways for a period of forty-eight hours as service loaner vehicles by customers having their vehicles repaired by the dealer. Upon delivery of such motor vehicle or trailer to such prospective buyer for demonstration purposes or to a service customer, the dealer shall deliver to the prospective buyer or service customer a card or certificate giving the name and address of the dealer, the name and address of the prospective buyer or service customer, and the date and hour of such delivery and the products to be hauled, if any, under a special permit. The special permit and card or certificate shall be in such form as shall be prescribed by the Department of Motor Vehicles and shall be carried by such prospective buyer or service customer while driving such motor vehicle or pulling such trailer. The Department of Motor Vehicles shall make a charge of ten dollars for each special permit issued hereunder. ~~Finance companies~~ A finance company, as defined in section 60-1401.02, which is licensed to do business in this state may, in lieu of registering each motor vehicle or trailer repossessed, upon the payment of a fee of ten dollars, make an application to the Department of Motor Vehicles for a repossession certificate and one repossession plate. Additional certificates and repossession plates may be procured for a fee of ten dollars each. Such repossession plates may be used only for moving motor vehicles or trailers on the streets and highways for the purpose of repossession, demonstration, and disposal of such motor vehicles or trailers repossessed. Such repossession plates shall be of the same size and material as the normal motor vehicle license plates and shall be prefixed with a large letter R and be serially numbered from 1 to distinguish them from each other. Such plates shall be displayed only on the rear of a repossessed motor vehicle or trailer. The certificate shall be displayed on demand for any motor vehicle or trailer being operated on a repossession plate. ~~Finance companies~~ A finance company shall be entitled to a dealer number plate only in the event such company has qualified as a motor vehicle dealer under ~~the provisions of Chapter 60, article 14.~~

(3)(a) Any licensed dealer or manufacturer described in subsection (1) of this section 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 number plate for the type of vehicle the dealer has been authorized by the Nebraska Motor Vehicle Industry Licensing Board to sell and demonstrate. One additional dealer number plate may be procured for the type of vehicle the dealer has sold during the last previous period of October 1 through September 30 for each twenty vehicles sold at retail during such period, or one additional dealer number plate for each thirty vehicles sold at wholesale during such period, but not to exceed a total of five additional dealer number plates in the case of vehicles sold at wholesale or, in the case of a manufacturer, for each ten vehicles 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. However, when an applicant applies for a license, the Nebraska Motor Vehicle Industry Licensing Board may authorize the county treasurer to issue additional dealer number plates when the dealer or manufacturer furnishes satisfactory proof for a need of additional dealer number plates because of special condition or hardship. In the case of unauthorized use of dealer plates by any licensed dealer, the Nebraska Motor Vehicle Industry Licensing Board is empowered to hold a hearing and after such hearing may determine that such dealer is not qualified for continued usage of such dealer plates for a set period not to exceed one year. Such additional dealer number plates shall, in addition to all other numbers and letters required by section 60-311.02, bear such mark or number as will distinguish such plates one from another.

(b) Subject to all the provisions of law relating to motor vehicles and trailers not inconsistent with this section, any person, firm, or corporation holding a dealer's license issued pursuant to the laws of this state 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, agent, or bona fide purchaser, drive such motor vehicle or pull such trailer on the highways of this state without charge or registration of such vehicle or trailer. There shall be displayed on the front and rear windows



of such motor vehicle, except a motorcycle, and displayed on the front and rear of each such trailer a decal on which shall be plainly printed in black letters not less than two inches high the words In Transit. One In Transit decal shall be displayed on a motorcycle, which decal may be one-half the size required for other motor vehicles. Such decals shall include a registration number, which registration number shall be different for each decal or pair of decals issued, and the form of such decal and the numbering system shall be as prescribed by the Department of Motor Vehicles. Each dealer issuing such decals shall keep a record of the registration number of each decal or pair of decals on the invoice of such sale. Such transit decal shall allow such owner to operate the motor vehicle or pull such trailer for a period of ~~fifteen~~ thirty days in order to effect proper registration of the new or used motor vehicle or trailer. ~~7 except that transit decals for trailers manufactured in Nebraska shall allow such owner or his or her designee to pull such trailer for a period of thirty days.~~ 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 pull such trailer for a period of ~~fifteen~~ 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, a certificate of title, or other satisfactory evidence of the right of possession by such person of such motor vehicle or trailer.

(4) 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, make an application to the Department of Motor Vehicles for a transporter's certificate and one transporter number plate. Additional certificates and plates may be procured for a fee of ten dollars each. Such transporter number plates may be the same size as plates issued for motorcycles, 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 plates may only be displayed upon the front of a driven vehicle of a lawful combination or upon the front of a motor vehicle driven singly or upon the rear of a trailer being pulled. The certificate shall be issued in

duplicate. The original thereof shall be kept on file by the transporter, and the duplicate shall be displayed upon demand by the driver of any vehicle or trailer being transported. A transporter plate or certificate may not be displayed upon a work or service vehicle, except that when a properly registered truck or tractor being a work or service vehicle is in the process of towing or drawing a trailer or semitrailer including a cabin trailer, which itself is being delivered by the transporter, then the registered truck or tractor shall also display a transporter plate upon the front thereof. The applicant for a transporter plate shall keep, for three years, a record of each vehicle transported by him or her hereunder, and such record shall be available to the department for inspection. Each applicant hereunder shall file proof of his or her status as a bona fide transporter.

(5) It shall be the duty of all law enforcement officers to arrest and prosecute all violators of the provisions of subsection (1), (2), (3), or (4) of this section and see that they are properly prosecuted according to law. Any person, firm, or corporation, including any motor vehicle or trailer dealer or manufacturer, who fails to comply with the provisions of subsection (1), (2), (3), or (4) of this section shall be deemed guilty of a Class V misdemeanor and in addition thereto pay the county treasurer any and all motor vehicle and trailer taxes or registration fees due had the motor vehicle or trailer been properly registered according to law. When any motor vehicle or trailer dealer's or manufacturer's license has been revoked, or otherwise terminated, it shall be the duty of such dealer to immediately surrender to the Department of Motor Vehicles or to the Nebraska Motor Vehicle Industry Licensing Board any dealer number plates issued to him or her for the current year. Failure of such dealer or manufacturer to immediately surrender such dealer license plates to the department upon demand by the department shall be unlawful.

(6) Any motor vehicle or trailer owned by a dealer and bearing other than dealer number plates as provided in this section shall be conclusively presumed not to be a part of the dealer's inventory and not for demonstration or sale and therefor not eligible for any exemption from taxation applicable to vehicles with dealer plates.

Sec. 5. That section 60-320.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-320.01. Any person purchasing a motor vehicle in this state other than from a licensed dealer in motor vehicles shall not operate such motor vehicle in this state without registration except as provided in this section. Such purchaser may operate such motor vehicle without registration for a period not to exceed ~~fifteen~~ thirty days. Upon demand of proper authorities, there shall be presented by the person in charge of such vehicle, for examination, a certificate showing the date of transfer and the certificate of title to such vehicle with assignment thereof duly executed. When such vehicle is purchased from a nonresident the person in charge of such vehicle shall present upon demand proper evidence of ownership from the state where such vehicle was purchased.

Any person, firm, or corporation in this state engaged in the business of equipping or modifying motor vehicles which are not registered and which are not owned by such person, firm, or corporation may cause the motor vehicle to be operated without registration solely for the purpose of equipping, modifying, and delivering such motor vehicle. Upon demand of proper authorities, the operator of such motor vehicle shall present written authorization from such person, firm, or corporation for delivery of the motor vehicle.

Any purchaser of a vehicle from the State of Nebraska or any political subdivision of the state may operate such vehicle without registration for a period of ~~fifteen~~ thirty days. Upon demand of proper authority, satisfactory proof of ownership, which shall be either the certificate of title to such vehicle with assignment thereof duly executed or a bill of sale which describes such vehicle with identification number, shall be presented by the person in charge of such vehicle for examination.

Sec. 6. That section 60-1411.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1411.02. The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person licensed as a motor vehicle dealer, trailer dealer, motor vehicle or trailer salesperson, 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. It shall have the power to deny any application for a license or to revoke or suspend any license issued under

the provisions of this act Chapter 60, article 14, when the applicant or licensee including any officer, stockholder, partner, or any person having any financial interest in the applicant or licensee:

(1) Has had any license, issued to him or her under Chapter 60, article 14, 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 as defined in section 60-1401.02;

(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 ; or; 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 thereto;

(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 and in the case of a salesperson has failed to notify the board of any change in his or her employment;

(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 ~~fifteen~~ thirty days;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with Chapter 60, article 14, and any orders, rules, or regulations of the board adopted and promulgated under Chapter 60, article 14;

(12) Has failed to comply with the advertising

and selling standards established in section 60-1411.03;

(13) Has failed to comply with the provisions of section 60-320, Chapter 60, article 1 or 14, or the rules or regulations adopted and promulgated by the board pursuant to Chapter 60, article 14;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, or rule or regulation adopted or made under the authority of or pursuant to the provisions of Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer, or other person, in the conduct of the licensee's business;

(16) Has employed any unlicensed salesperson or salespersons;

(17) Has failed to comply with the provisions of Chapter 60, article 23;

(18) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under Chapter 87, article 3; or

(19) Has conspired, as defined in section 28-202, with other persons to process titles in violation of the provisions of Chapter 60, article 1.

Sec. 7. That section 77-2703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2703. (1) There is hereby imposed a tax of two percent upon the gross receipts from all sales of tangible personal property sold at retail in this state, the gross receipts of every person engaged as a public utility, as a community antenna television service operator or any person involved in the connecting and installing of the services defined in subdivision (4)(b)(i), (ii), or (iv) of section 77-2702, or as a retailer of intellectual or entertainment properties referred to in subdivision (4)(c) of section 77-2702, the gross receipts from the sale of admissions in this state, and the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section until January 1, 1970, and on and after such date the rate shall be that which is set as provided in section 77-2715.01. When there is a sale, as defined in subdivision (13) of section 77-2702, after March 26, 1974, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be

collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax, and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to adopt and promulgate appropriate rules and regulations prescribing a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items, except that the Tax Commissioner may authorize computation and collection of the tax uniformly on a straight percentage basis in lieu of brackets in situations involving machine or computer billing.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are

subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he or she takes, in good faith, from the purchaser a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it or takes, in good faith, an exemption certificate pursuant to subsection (7) of section 77-2705. Receipt of a resale certificate or exemption certificate, taken in good faith, shall be conclusive proof for the seller that the sale was made for resale or was exempt.

(g) Whenever any retailer shall make delivery of any tangible personal property in this state on or after June 1, 1967, it shall be conclusively presumed that such property was sold at retail on or after June 1, 1967, unless the delivery thereof is made pursuant to a contract executed in writing for a fixed price before June 1, 1967, with at least twenty-five percent of the total price paid prior to June 1, 1967, and such delivery is made prior to August 31, 1967.

(h) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in section 60-301, for periods of thirty days or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of thirty days or more. If the lessor rents or leases other vehicles for periods of less than thirty days, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner shall prescribe; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of

the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(i) If a sales or use tax has been paid on the purchase, storage, use, or other consumption of tangible personal property used in the performance of a construction contract, which contract is with the project owner, is for a fixed price, and has been executed prior to June 1, 1967, and which tangible personal property is incorporated into the project and transferred to the owner of the structure constructed upon the completion of the contract, the person having paid such sales or use tax shall be entitled to a refund of the amount of taxes so paid. The Tax Commissioner shall by rule and regulation provide the manner and means of applying for such refund and shall require the furnishing of such proof as may reasonably be required to establish the fact that such property was used in the completion of a contract as defined in this subdivision and that any sales or use tax has in fact been paid on such tangible personal property.

(j) The tax imposed by this section on the sales of motor vehicles, trailers, and semitrailers as defined in section 60-301 shall be the liability of the purchaser and, with the exception of motor vehicles, trailers, and semitrailers registered pursuant to section 60-305.09, the tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motor vehicle, trailer, or semitrailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, trailers, and semitrailers registered pursuant to section 60-305.09 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, trailer, or semitrailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, trailer, or semitrailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed hereunder and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner shall prescribe, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. A



copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motor vehicle, trailer, or semitrailer in this state and does not register it for operation on the highways of this state within twenty thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner at such times as the Tax Commissioner may require by rule and regulation. The county treasurer shall deduct and withhold for the use of the county general fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The Department of Motor Vehicles shall deduct, withhold, and deposit in the Interstate Registration Operations Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer or Department of Motor Vehicles violates any rule or regulation pertaining to the collection of the use tax.

(k) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer or leased or rented from another person for such purpose is liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability is not extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to subdivision (b) of this subsection is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting tangible personal property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. Such collectors of the use

tax shall deduct and withhold from the amount of taxes collected three percent of the first five thousand dollars remitted each month and one percent of all amounts in excess of five thousand dollars remitted each month as reimbursement for the cost of collecting the tax, but such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that tangible personal property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) It shall be further presumed, in the absence of evidence to the contrary, that tangible personal property shipped or brought to this state by the purchaser after June 1, 1967, was purchased from a retailer on or after that date for storage, use, or other consumption in this state.

(g)(i) Except as provided in subdivisions (g)(ii) and (g)(iii) of this subsection, when a person purchases tangible personal property in another state, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country with the intent of using such property in such other state, commonwealth, territory, possession, or country and such property is actually used in the other state, commonwealth, territory, possession, or country for its intended purpose, the tangible personal property shall not be subject to tax in this state.

(ii) Subdivision (g)(i) of this subsection shall only apply to a motor vehicle, trailer, or semitrailer as defined in section 60-301 when it is licensed for operation on the highways of the other state, commonwealth, territory, possession, or country prior to being brought into this state.

(iii) Subdivision (g)(i) of this subsection shall not apply to an aircraft which is brought into this state within one year of purchase and (A) is regularly based within this state or (B) more than one-half of the aircraft's operating hours are within this state.

For purposes of subdivision (g)(iii) of this subsection, operation of the aircraft for the purpose of maintenance, repair, or fabrication with subsequent

removal from this state upon completion of such maintenance, repair, or fabrication shall not be considered operating hours.

Sec. 8. That original sections 60-130, 60-315, 60-320, 60-320.01, 60-1411.02, and 77-2703, Reissue Revised Statutes of Nebraska, 1943, and section 60-106, Revised Statutes Supplement, 1990, are repealed.