

LEGISLATIVE BILL 300

Approved by the Governor May 27, 1975

Introduced by Burbach, 19

AN ACT to amend sections 71-4601 to 71-4609, Reissue Revised Statutes of Nebraska, 1943, relating to public health and welfare; to adopt the Uniform Standard Code for Mobile Homes and Recreational Vehicles; to make an appropriation and reappropriation; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 71-4601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4601. ~~Sections 71-4601 to 71-4609~~ This act shall be known and may be cited as the Uniform Standard Code for Mobile Homes and ~~Travel--Trailers~~ Recreational Vehicles.

Sec. 2. That section 71-4602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4602. The Legislature recognizes that uniformity in ~~construction standards for mobile homes and travel trailers~~ the manner of the body and frame design, construction, assembly, and use of mobile homes and recreational vehicles and that of their systems, components, and appliances including their plumbing, heating, and electrical systems is desirable, in order that owners may not be burdened with differing requirements, and in order to promote construction suitable for the health of the numerous persons living in mobile homes and recreational vehicles.

Sec. 3. That section 71-4603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4603. As used in ~~sections 71-4601 to 71-4609~~ this act, unless the context otherwise requires:

(1) Mobile home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed without a permanent foundation for year-around 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;

(2) Recreational vehicle shall mean a vehicular type structure, primarily designed as temporary living quarters for travel, recreational, camping, or vacation use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-propelled. The term recreational vehicle shall include travel trailer, camping trailer, truck camper, and motor home;

(3) Travel trailer shall mean a vehicular, portable structure built on a chassis, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, primarily designed to be used as a temporary dwelling for travel, camping, recreational, and vacation use, and is permanently identified as a travel trailer by the manufacturer on the trailer. When factory equipped for the road, it has a body width not exceeding eight feet; and body length not exceeding thirty-two feet;

(4) Camping trailer shall mean a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for travel, recreational, camping, or vacation use;

(5) Truck camper shall mean a portable unit or structure, designed to be loaded onto or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for travel, recreational, camping, or vacation use;

(6) Motor home shall mean a vehicular unit built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for travel, recreational, camping, or vacation use;

(7) Seal shall mean a device or insignia issued by the Department of Health to be displayed on the exterior of the mobile home or recreational vehicle to evidence compliance with the departmental standards;

(8) Dealer shall mean a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in mobile homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases mobile homes or recreational vehicles primarily to persons who in good faith purchase

or lease a mobile home or recreational vehicle for purposes other than resale;

(9) Distributor shall mean any person engaged in the sale and distribution of mobile homes or recreational vehicles for resale;

(4) (10) Manufacturer shall mean any person who manufactures or assembles mobile homes or travel-trailers recreational vehicles; and

(11) Mobile home construction shall mean all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety;

(12) Mobile home safety shall mean the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(13) Defect shall mean any defect in the performance, construction, components, or material of a mobile home which renders the home or any part thereof unfit for the ordinary use for which it was intended;

(14) Imminent safety hazard shall mean an imminent and unreasonable risk of death or severe personal injury;

(15) Purchaser shall mean the first person purchasing a mobile home in good faith for purposes other than resale;

(16) Person shall mean any individual, partnership, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing mobile homes or recreational vehicles; and

(5) (17) Department shall mean the Department of Health.

Sec. 4. That section 71-4604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4604. All body and frame design and construction and all plumbing, heating and electrical systems installed in mobile homes or travel-trailers recreational vehicles manufactured more than six four

months after December-25, 1969 the effective date of this act, and all body and frame design and construction of mobile homes or travel trailers manufactured more than six months after August-27, 1974 and sold, or offered for sale, or leased in this state shall be at least equal to the standards approved by the department by regulation of the department. The standards adopted by the department from time to time shall be correlated with and, so far as practicable, conform to the then-current standards and specifications approved by the American National Standards Institute or its successor association, as such standards and specifications apply to the installation of plumbing, heating and electrical systems and body and frame design and construction of mobile homes and travel trailers.

Sec. 5. (1) Every mobile home or recreational vehicle manufactured more than four months after the effective date of this act which is sold, offered for sale, or leased in this state shall bear a seal issued by the department certifying that the body and frame design, construction, and the plumbing, heating, and electrical systems of such mobile home or recreational vehicle have been installed in compliance with the standards adopted by the department, applicable at the time of manufacture. The department shall issue the seal upon an inspection of the plans and specifications for the mobile home or recreational vehicle or upon an actual inspection of the mobile home or recreational vehicle during or after construction, if in compliance with the departmental standards. Each seal issued by the department shall remain the property of the department and may be revoked by the department in the event of a violation of the conditions of issuance.

(2) A fee of not less than ten dollars nor more than twenty dollars, as determined by departmental regulation, shall be charged for each seal issued by the department. Inspection fees shall be paid for all departmental inspections of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel and inspection expenses only and shall be paid prior to any issuance of seals.

(3) All fees collected pursuant to this act shall be paid into the state treasury and credited by the State Treasurer to the Mobile Home and Recreational Vehicle Cash Fund, which fund is hereby created. Such fund shall be used by the department for the purpose of administering this act.

Sec. 6. That section 71-4605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4605. Except as provided in section 71-4606, no dealer shall sell, or offer for sale, or lease in this state any new or used mobile home or ~~travel-trailer~~ recreational vehicle manufactured more than ~~six~~ four months after ~~December 25, 1969~~ the effective date of this act unless such mobile home or ~~travel-trailer~~ recreational vehicle meets or exceeds the standards with respect to body and frame design, construction, and plumbing, heating, and electrical systems established under the provisions of ~~sections 71-4604 to 71-4609, and no such mobile home or travel-trailer manufactured more than six months after August 27, 1974 shall be sold or offered for sale unless it meets or exceeds the standards for body and frame design and construction established under the provisions of sections 71-4604 to 71-4609~~ this act.

Sec. 7. That section 71-4606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4606. If any other state has plumbing, heating, electrical or body and frame design and construction codes for mobile homes or ~~travel-trailers~~ recreational vehicles at least equal to those established under the provisions of ~~sections 71-4604 to 71-4609~~ this act, the department, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list, which list shall be available to any interested person. Any mobile home or recreational vehicle which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state. A mobile home or recreational vehicle manufactured more than four months after the effective date of this act which does not bear the seal issued by the department or by a state which has been placed on the reciprocity list shall not be permitted to be manufactured, offered for sale, sold, or leased by a manufacturer, dealer, or any other person anywhere within this state nor delivered from this state into any other state or jurisdiction. If a mobile home or ~~travel-trailer~~ recreational vehicle has a certificate of title or other certification from a state on the reciprocity list, a dealer may sell it unless he has actual knowledge that the mobile home or ~~travel-trailer~~ recreational vehicle does not meet the standards of the state which has issued a certificate of title or other certification for it, so long as it bears the seal issued by the department or a state on the

reciprocity list.

Sec. 8. That section 71-4607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4607. If a mobile home or ~~travel--trailer~~ recreational vehicle may be sold in this state by a dealer, ~~no~~ an agency or political subdivision of the state, or municipality, ~~shall~~ may require compliance with codes of body and frame design, construction, or plumbing, heating or electricity electrical installations having ~~different~~ more stringent requirements than provided for ~~in--sections--71-4694--to--71-4699~~ by the department in standards adopted pursuant to this act.

Sec. 9. (1) The department is authorized to conduct inspections and investigations as may be necessary to enforce the standards adopted under this act or to carry out its duties pursuant thereto. The department shall furnish the appropriate state and county officials any information obtained indicating noncompliance with such standards for appropriate action.

(2) For purposes of enforcement of this act and the rules, regulations, and standards adopted by the department pursuant thereto, persons duly designated by the department, upon presenting appropriate credentials to the owner, operator, or agent in charge are authorized to:

(a) Enter, at reasonable times and without advance notice, any factory, warehouse, or other establishment or place in which mobile homes or recreational vehicles are manufactured, stored, offered for sale, or held for lease or sale; and

(b) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or other establishment or place, and to inspect such books, papers, records, and documents as are set forth in section 10 of this act. Each such inspection shall be commenced and completed with reasonable promptness.

(3) The department may contract with private inspection organizations to carry out its functions under this section. If the department appoints nongovernmental inspectors or inspection agencies as its authorized representatives to carry out such inspections, the department shall at all times exercise supervisory control over such inspectors or agencies to insure effective and uniform enforcement of departmental

standards. No person may interfere with, obstruct, or hinder an authorized representative of the department in the performance of such an inspection.

Sec. 10. For the purpose of carrying out the provisions of this act, the department is authorized to:

(1) Hold such hearings, take such testimony, act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memoranda, contracts, agreements, or other records, as the department deems advisable. Witnesses summoned pursuant to this section shall be paid the same fees and mileage as are paid witnesses in the district courts of the state;

(2) Examine and copy any documentary evidence of any person having materials or information relevant to any function of the department under this act;

(3) Require, by general or special orders, any person to file, in such form as the department may prescribe, reports or answers in writing to specific questions relating to any function of the department under this act. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable period as the department may prescribe; and

(4) Make available to the public any information which may indicate the existence of a defect which relates to mobile home construction or safety or of the failure of a mobile home to comply with applicable standards. The department shall disclose so much of other information obtained under this subdivision to the public as it determines will assist in carrying out the provisions of this act, but it shall not under the authority of this subdivision make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless the department determines that it is necessary to carry out the purposes of this act.

Sec. 11. Any district court of this state in which any action is instituted in the case of any willful or negligent refusal to obey a subpoena or order of the department issued pursuant to section 10 of this act, may issue an order requiring compliance therewith. Any person who fails to obey such order of the court shall be guilty of contempt of court and may be punished by such

court accordingly.

Sec. 12. Each manufacturer of mobile homes shall:

(1) Submit the building plans for every model of its mobile homes to the department for the purpose of inspection. The manufacturer shall certify that each building plan meets the standards in force at that time before the respective model is produced;

(2) Establish and maintain records, make reports, and provide information as the department may reasonably require to enable it to determine whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the provisions of this act and standards adopted pursuant thereto;

(3) Upon request of a person duly designated by the department, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the provisions of this act and standards adopted pursuant thereto; and

(4) Provide to the department all performance data and other technical data related to performance and safety as may be required by the department to carry out the purposes of this act. Such data shall include records of tests and test results which the department may require to be performed.

Sec. 13. The department may require the manufacturer to give notification of performance and technical data to:

(1) Each prospective purchaser of a mobile home before its first sale for purposes other than resale at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the department to be appropriate, which may include, but not be limited to, printed matter that is both available for retention by such prospective purchaser and sent by mail to such prospective purchaser upon his request; and

(2) The first person who purchases a mobile home for purposes other than resale, at the time of such purchase or in printed matter placed in the mobile home.

Sec. 14. All information reported to or otherwise obtained by the department or its duly authorized representatives pursuant to this act which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out the provisions of this act or, when relevant, in any proceeding under this act.

Sec. 15. (1) Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, violates a standard adopted by the department or contains a defect which constitutes an imminent safety hazard to the purchaser of such mobile home, within a reasonable time after such manufacturer has discovered the defect.

(2) The notification required by this section shall be accomplished:

(a) By mail to the first purchaser, not including any dealer or distributor of such manufacturer, of the mobile home containing the defect, and to any subsequent purchaser to whom any warranty on such mobile home has been transferred;

(b) By mail to any other person who is a registered owner of such mobile home and whose name and address has been ascertained pursuant to procedures established under section 18 of this act; and

(c) By mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(3) The notification required by subsection (1) of this section shall contain a clear description of such defect or failure to comply, an evaluation of the risk to mobile home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the mobile home, or is a defect which must be corrected at the expense of the owner.

Sec. 16. Every manufacturer of mobile homes shall furnish to the department a true or representative copy of all notices, bulletins, and other communications

sent to the dealers of the manufacturer or to purchasers of mobile homes of the manufacturer regarding any defect in any mobile home produced by the manufacturer. The department shall disclose to the public so much of the information contained in such notices or other information obtained pursuant to this act as it deems will assist in carrying out the purposes of this act, but it shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put the manufacturer at a substantial competitive disadvantage, unless it determines that it is necessary to carry out the purposes of this act.

Sec. 17. (1) If the department determines that any mobile home (a) does not comply with an applicable standard adopted by the department, or (b) contains a defect which constitutes an imminent safety hazard, it shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the department and shall include all information upon which the findings are based.

(2) The department shall afford such manufacturer an opportunity to present his views and evidence in support thereof to establish that there is no failure of compliance. If, after such presentation by the manufacturer, the department determines that such mobile home does not comply with applicable departmental standards, or contains a defect which constitutes an imminent safety hazard, the department shall direct the manufacturer to furnish the notification specified in section 15 of this act.

Sec. 18. Every manufacturer of mobile homes shall maintain a record of the name and address of the first purchaser of each mobile home for purposes other than resale and, to the maximum extent feasible and reasonable, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each mobile home produced by a manufacturer. The department may establish by regulation procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this section.

Sec. 19. (1) A manufacturer required to furnish notification of a defect under section 15 or 17 of this act shall also bring the mobile home into compliance with applicable departmental standards and correct the defect

or have the defect corrected within a reasonable period of time at no expense to the owner; Provided, that the defect presents an unreasonable risk of injury or death to occupants of the affected mobile home and the defect can be related to an error by the manufacturer in design or assembly of the mobile home.

(2) The department may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(3) The manufacturer shall submit his remedy plan for repairing such defect to the department for its approval, or the manufacturer shall notify the department of the corrective action it has taken and request departmental approval. Whenever a manufacturer is required to correct a defect, the department shall approve with or without modification, after consultation with the manufacturer of the mobile home involved, the manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the department grants an extension of such period for good cause shown. The manufacturer shall implement any remedy plan approved by the department.

(4) When a defect or failure to comply in a mobile home cannot be adequately repaired within sixty days from the date of discovery or determination of the defect, the department may require that the mobile home be replaced with a new or equivalent mobile home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the mobile home has been in the possession of the owner for more than one year.

Sec. 20. That section 71-4608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4608. (1) Any person violating who is in violation of any provision of this act or who manufactures, sells, offers for sale, or leases in this state any mobile home or recreational vehicle manufactured more than four months after the effective date of this act which does not bear the seal issued by the department or by a state which has been placed on the

reciprocity list as required by the provisions of sections 71-4601 to 71-4609 this act shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not more less than one two hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not more than one year, or be both so fined and imprisoned.

(2) Any person who violates any provision of this act, in addition to any criminal penalty, shall be liable to the department on behalf of the state for a civil penalty not to exceed one thousand dollars for each such violation. Each violation of a provision of this act shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required by this act, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(3) An individual, or any director, officer, or agent of a corporation who knowingly and willfully violates any provision of this act in a manner which threatens the health and safety of any purchaser shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one thousand dollars, or be imprisoned not more than one year, or be both so fined and imprisoned.

(4) Subsections (2) and (3) of this section shall not apply to situations involving recreational vehicles.

Sec. 21. That section 71-4609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4609. (1) The department shall---adopt necessary rules and regulations for administering the provisions of sections 71-4601 to 71-4609. is hereby charged with the administration of the provisions of this act. The department may adopt, amend, alter, or repeal general rules and regulations of procedure for (a) administering the provisions of this act, (b) the issuance of seals, (c) the submission of plans and specifications of mobile homes and recreational vehicles, (d) obtaining statistical data respecting the manufacture and sale of mobile homes and recreational vehicles, and (e) prescribing means, methods, and practices to make effective such provisions.

(2) The department shall appoint an advisory committee of seven members which shall have the authority

to review the rules, regulations, and standards of the department pertaining to mobile homes and recreational vehicles and to recommend changes relative thereto. The committee shall represent a cross section of those having an extensive interest in mobile home or recreational vehicle body and frame design, construction, or plumbing, heating, or electrical systems. The committee shall serve at the pleasure of the department and shall submit an annual report to the department.

(3) The department shall refuse to issue a seal to any manufacturer or other person for any mobile home or recreational vehicle found to be not in compliance with departmental standards governing body and frame design, construction, or plumbing, heating, or electrical systems for mobile homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the department on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of Chapter 84, article 9, and continued departmental refusal subsequent to such a hearing shall also be subject to review pursuant to such provisions.

(4) The issuance of seals may be suspended or revoked as to any manufacturer or other person who has not complied with any provision of this act or with any rule, regulation, or standard adopted under this act or who is convicted of violating section 71-460B, and issuance of the seals shall not be resumed until such manufacturer or other person submits sufficient proof that the conditions which caused the lack of compliance or the violation have been remedied. Any manufacturer or other person may request a hearing before the department on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of Chapter 84, article 9, and continued departmental suspension or revocation subsequent to such a hearing shall also be subject to review pursuant to such provisions.

Sec. 22. There is hereby appropriated from the Mobile Home and Recreational Vehicle Cash Fund the sum of two hundred fifty thousand dollars for the period ending June 30, 1975. The unexpended balance of the appropriation contained in this section existing on June 30, 1975, is hereby reappropriated for the period July 1, 1975 to June 30, 1976.

Sec. 23. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 24. That original sections 71-4601 to 71-4609, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 25. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.