

LEGISLATIVE BILL 248

Approved by the Governor April 24, 1978

Introduced by Public Works Committee, Kremer, 34, Chmn.;
Mills, 44; Kelly, 35; Merz, 1; Moylan, 6; R.
Lewis, 38

AN ACT to amend sections 60-107, 60-1413, 60-2303, and 60-2305, Reissue Revised Statutes of Nebraska, 1943, and sections 60-1401.02, 60-1402, 60-1406, 60-1409, 60-1411.01, 60-1411.02, 60-1415, and 60-1417, Revised Statutes Supplement, 1976, and section 60-320, Revised Statutes Supplement, 1977, relating to motor vehicles; to provide a time for destroying old records of vehicle title transfers; to change requirements for dealers' plates; to redefine terms; to increase license fees; to provide additional authority for the Nebraska Motor Vehicle Industry Licensing Board; to limit the number of consecutive terms served by board members; to change provisions relating to devise, revocation, or suspension of licenses; to change certain provisions relating to motor vehicle sales; to require an odometer reading statement on certain motor vehicles; to change a prohibition; and to repeal the original sections.

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

Section 1. That section 60-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-107. The county clerk shall issue the certificate of title in triplicate. All certificates of title shall be typewritten. One copy shall be retained by him in his office and the other copy shall be transmitted, postage prepaid, on the day of issuance to the Department of Motor Vehicles. The county clerk shall sign and affix his seal to the original certificate of title and, if there are no liens on the motor vehicle, deliver the certificate to the applicant. If there are one or more liens on the motor vehicle, the certificate of title shall be delivered or mailed to the holder of the first lien on the day of issuance. For the purpose of this act, the clerks of the various counties shall adopt a circular seal with the words County Clerk of (insert name) County thereon. Such seal

shall be used by the county clerk, or the deputy or legal authorized agent of such officer, without charge to the applicant, on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a Nebraska certificate of title. The department shall prescribe a uniform method of numbering certificates of title in such a manner that the county of issuance shall be indicated. The county clerk shall (1) assign numbers to certificates of title in the manner prescribed by the department, (2) file all certificates of title according to regulations to be prescribed by the department, (3) maintain in the office indices for such certificates of title, (4) be authorized to destroy all previous records five years after a subsequent transfer has been made on a vehicle, and (5) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or more from the date of filing the certificate or a notation of lien, whichever shall occur later.

Sec. 2. That section 60-320, Revised Statutes Supplement, 1977, be amended to read as follows:

60-320. (1) Each licensed dealer in motor vehicles or dealer in trailers 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 business as a motor vehicle or trailer dealer, including the personal or private use of such dealer and his immediate family who reside in his household, and including the personal or private use of any employee licensed pursuant to Chapter 60, article 14, and his immediate family who reside in the household of such employee, or his employee 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 trucks or truck-tractors or trailers hauling other than automotive or trailer equipment 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. Upon delivery of such motor vehicle or trailer to such prospective buyer for demonstration purposes, the dealer shall deliver to the prospective buyer a card or certificate giving the name and address of the dealer, the name and address of the prospective buyer, 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 while driving such motor vehicle or pulling such trailer; Provided, that the Department of Motor Vehicles shall make a charge of ten dollars for each special permit issued hereunder. Finance companies, as defined in subdivision (18) of section 60-1401.02, 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 plate 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 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 fifteen thirty dollars make an application, on a form approved by the Motor Vehicle Industry Licensing Board, to the county treasurer of the county in which his place of business is located for a certificate and one dealer number plate. One additional dealer number plate may be procured, in case of a dealer, for the type of vehicle the dealer has been authorized by the Motor Vehicle Industry Licensing Board to sell and demonstrate for each ten twenty vehicles sold at retail, or one additional dealer number plate for each thirty vehicles sold at wholesale, but not to exceed a total of five additional dealer number plates in the case of vehicles sold at wholesale, 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; or, in the case of a manufacturer, for each ten vehicles actually manufactured or assembled within the state, in the last previous year for a fee of fifteen dollars each; Provided, where a new when an applicant applies for a license, the Motor Vehicle Industry Licensing Board may authorize the county treasurer may to issue additional number plates when the dealer or manufacturer furnishes satisfactory proof for a need of additional number plates because of special condition or hardship. In the case of unauthorized use of dealer plates by any licensed dealer, the 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 and who is regularly engaged within this state in the business of buying and selling motor vehicles and trailers and who regularly maintains within this state an established place of business, who desires to effect delivery of any motor vehicle or trailer bought or sold by him from the point where purchased or sold to points within or outside this state may, solely for the purpose of such delivery by himself, 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 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 and a registration number, which registration number shall be different for each 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 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 days in order to effect proper registration of the new or used motor vehicle or trailer. Where 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 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, and 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, and 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 where 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 said 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 hereunder, and such record shall be available to the department for inspection. Each applicant hereunder must file proof of his 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 the provisions of the 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 shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars, 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, 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 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.

Sec. 3. That section 60-1401.02, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1401.02. As used in 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, or 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, or 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 three or more motor vehicles, motorcycles, or trailers solely for the purpose of dismantling them 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; 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 campers, fold down campers, and fold down tent trailers; 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, or 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; 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 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 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; Provided, a person owning any part of more than one dealership may be a 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, 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 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, 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 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 books, records, and files shall be available for inspection by the board's representatives at all reasonable hours; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than twelve 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; 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; 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 twelve eight inches in height identifying such supplemental place of business; and provided further, that where one corporation controls one or more other corporations doing business and licensed under the provisions of this act, only the controlling corporation must comply with the requirements of an established place of business pertaining to recordkeeping as set forth in this subdivision;

(26) Wholesaler shall mean a person in this state who sells at wholesale used motor vehicles or used trailers to motor vehicle dealers or trailer dealers; 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, or 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) 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. 4. That section 60-1402, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1402. (1) There is hereby established the Nebraska Motor Vehicle Industry Licensing Board which shall consist of the Director of Motor Vehicles, who shall be chairman of the board, and nine members appointed by the Governor as follows: One factory representative, one member of the general public, and one motorcycle dealer, all of whom shall be appointed from the state at large, one new motor vehicle dealer from each of the three congressional districts of the state as the districts are constituted on October 19, 1963, and two used motor vehicle dealers and one trailer dealer or combination motor vehicle or trailer dealer, not more than one used motor vehicle dealer being appointed from the same congressional district as they are constituted on October 19, 1963, and the trailer dealer or combination motor vehicle or trailer dealer being appointed from the state at large; Provided, that no member of the board shall participate in any manner in a proceeding before the board involving his licensed business.

(2) On October 19, 1963, the Governor shall appoint a new motor vehicle dealer and a trailer dealer or combination motor vehicle or trailer dealer to the board. In making the appointments, the Governor shall appoint one of the new members for one year and one for two years as designated by him in making the appointments. On January 1, 1972, the Governor shall appoint one factory representative and one member of the general public to the board, designating one to serve for a term of one year and one for a term of two years. On January 1, 1974, the Governor shall appoint one motorcycle dealer to serve for a term of three years. At the expiration of the term of any appointed member of the board, the Governor shall appoint a successor for a term of three years. In the event of a vacancy on the board,

the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. No member appointed shall serve more than two consecutive terms. The action of the majority of the members of the board shall be deemed the action of the board. All appointments made to the board, except the Director of Motor Vehicles, shall be confirmed by the Legislature if in session. In the event the Legislature is not in session all appointments including appointments to fill a vacancy shall be temporary appointments until the next meeting of the Legislature when the Governor shall nominate some person to fill the office. Any person so nominated who is confirmed by the Legislature shall hold his office during the remainder of the term. No appointed person may act as a member of the board while holding any other elective or appointive state or federal office except the Director of Motor Vehicles. All appointed members of the board shall be paid fifty dollars for each day actually engaged in the performance of their duties and be entitled to their reasonable traveling expenses in the performance of their duties.

Sec. 5. That section 60-1406, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1406. Licenses issued by the board under the provisions of sections 60-1401 to 60-1419 shall be of the classes hereinafter set out and shall permit the following described business activities:

(1) Motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles and trailers as defined in section 60-1401.02, at the established place of business designated in such license and another place or places of business located within three hundred feet of such designated place of business, and within the city or county described in such original license. This license shall permit the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license shall permit one person, either the licensee, if he is the individual owner of such licensed business or a stockholder, officer, or copartner of such licensee to act as a motor vehicle and trailer salesman and the name of such authorized person shall appear on the license;

(2) Motor vehicle, motorcycle, or trailer salesman license. This license shall permit the licensee to engage in the activities of a motor vehicle,

motorcycle, or trailer salesman as defined in section 60-1401.02. This license shall permit the one person named thereon to act as a salesman;

(3) Manufacturer license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer, or manufacturer's factory branch as defined in section 60-1401.02;

(4) Distributor license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor as defined in section 60-1401.02;

(5) Factory representative license. This license shall permit the licensee to engage in the activities of a factory branch representative as defined in section 60-1401.02;

(6) Factory branch license. This license shall permit the licensee to maintain a branch office, as defined in section 60-1401.02, in this state;

(7) Distributor representative license. This license shall permit the licensee to engage in the activities of a distributor representative as defined in section 60-1401.02;

(8) Finance company license. This license, as defined in section 60-1401.02, shall permit the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

~~{9}--Wholesale--license---This---license---shall permit the licensee to sell at wholesale, as defined in section 60-1401.02;~~

~~{10}~~ (9) Wrecker or salvage dealer license. This license shall permit the licensee to engage in the business of acquiring motor vehicles or trailers solely for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories thereof as defined in section 60-1401.02;

~~{11}~~ (10) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business

designated in the original motor vehicle, motorcycle or trailer dealer's license but which is located within the city or county described in such original license;

{12} [11] Motorcycle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used or new and used motorcycles, as defined in section 60-1401.02, at the established place of business designated in such license and another place or places of business located within three hundred feet of such designated place of business, and within the city or county described in such original license. This form of license shall permit one person named thereon, either the licensee, if he is the individual owner of such licensed business, or a stockholder, officer, or copartner of such licensee, to act as a motorcycle salesman and the name of such authorized person shall appear on the license; and

{13} [12] Motor vehicle auction dealer's license. This license shall permit the licensee to engage in the business of selling motor vehicles and trailers as defined in section 60-1401.02. This form of license shall permit one person named thereon, either the licensee, if he is the individual owner of such licensed business, or a stockholder or officer or copartner of such licensee to act as a motor vehicle auction dealer's salesman and the name of the authorized person shall appear on the license.

Sec. 6. That section 60-1409, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1409.. All fees collected under this act shall be paid by the board, as collected, into the state treasury. The State Treasurer shall enter and carry on his records all such collections in a separate fund to be designated as the Nebraska Motor Vehicle Industry Licensing Fund. Such fund shall be appropriated by the Legislature for the operations of the Nebraska Motor Vehicle Industry Licensing Board, and shall be paid out from time to time by warrants of the Director of Administrative Services on the State Treasurer for authorized expenditures upon duly itemized vouchers executed as provided by law and approved by the chairman of the board or the executive secretary. The expenses of conducting the office must always be kept within the income collected and reported to the State Treasurer by such board. Such office and expense thereof shall not be supported or paid from the General Fund and all money deposited in such fund shall be expended only for such office and expense thereof and, unless determined by the board, it shall not be required to expend any funds to

any person or any other governmental agency. Any money in the Nebraska Motor Vehicle Industry Licensing Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1244 and 72-1246 to 72-1259 and the fund shall be audited annually by the Auditor of Public Accounts.

Sec. 7. That section 60-1411.01, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1411.01. To pay the expenses of the administration, operation, maintenance, and enforcement of this act, the board shall collect with each application for each class of license fees not exceeding the following amounts: (1) Motor vehicle dealer's license, fifty one hundred dollars; (2) supplemental motor vehicle dealer's license, ten dollars; ~~{3}--trailer dealer's license, fifty dollars;~~ ~~{4} {3}~~ motor vehicle, or motorcycle, ~~--or--trailer~~ salesman's license, three dollars; ~~{5} {4}~~ motor vehicle, motorcycle, or trailer manufacturer's license, two hundred fifty three hundred dollars; ~~{6} {5}~~ distributor's or ~~--wholesaler's~~ license, two hundred fifty three hundred dollars; ~~{7} {6}~~ factory representative's license, ten dollars; ~~{8} {7}~~ distributor representative's license, ten dollars; ~~{9} {8}~~ finance company's license, fifty dollars; ~~{10} {9}~~ wrecker or salvage dealer's license, fifty dollars; ~~{11} {10}~~ factory branch license, fifty dollars; ~~{12} {11}~~ motorcycle dealer's license, fifty one hundred dollars and ~~{13} {12}~~ motor vehicle auction dealer's license, fifty one hundred dollars; which fees shall be fixed by the board and shall not exceed the amount actually necessary to sustain the administration, operation, maintenance, and enforcement of this act. ~~Fifteen dollars of the license fee for each dealer's license of any class shall be an inspection fee, and shall not be refunded if the application is denied because of the applicant's failure to meet the requirements of this act.~~ Such licenses, if issued, shall expire on December 31 next following the date of the issuance thereof. Any motor vehicle, motorcycle or trailer dealer changing its location shall not be required to obtain a new license if the new location is within the same city limits or county provided all requirements of law are complied with and a fee of ten dollars is paid, but any change of ownership of any licensee shall require a new application for a license and a new license. Change of name of licensee without change of ownership shall require the licensee to obtain a new license and pay a fee of five dollars. Applications shall be made each year for a new or renewal license.

Sec. 8. That section 60-1411.02, Revised Statutes Supplement, 1976, 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 salesman, manufacturer, factory branch, distributor, wholesaler, 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 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 under the provisions of this act, revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;

(2) Has knowingly purchased, sold or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;

(3) Has failed to provide and maintain an established place of business 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; or, in the event felony charges are pending against an applicant, ~~then no license shall be issued to 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 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 address of his established place or places of business and in the case of a salesman has failed to notify the board of any change in his 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;

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

(11) Has failed to comply with the provisions of this act and any orders, rules or regulations of the board promulgated under the act;

(12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;

(13) Has failed to comply with the provisions of section 60-320, Chapter 60, article 1, the provisions of this act or rules or regulations promulgated by the board under the provisions thereof;

(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 salesman or salesmen; or

(17) Has failed to comply with the provisions of Chapter 60, article 47-or 23 or has been convicted by the court for failure to comply with Chapter 60, article 17: or =

(18) Has been found guilty of selling an uninspected vehicle as provided in section 60-1701.

Sec. 9. That section 60-1413, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1413. Before the board shall deny any application for a license or before revoking or suspending any license issued hereunder it shall give the applicant or holder of the license a hearing on the matter. It shall, at least ten days prior to the date set for the hearing, notify the applicant or license

holder of the license in writing. Such notice in writing shall contain an exact statement of the charges against him and the date and place of hearing. The applicant or license holder shall have full authority to be heard in person or by counsel before the board in reference to such charges. The written notice may be served by delivery personally to the applicant or holder of license, or by mailing such notice by registered or certified mail to the last-known business address of such applicant or license holder. If the applicant is a salesman, the board shall also notify the dealer employing him or whose employ he seeks to enter by mailing such notice to the dealer's last-known business address. A stenographic record of all testimony presented at such hearings shall be made and preserved pending final disposition of the complaint. Where When the licensee fails to maintain a bond as provided in section 60-1419, or an established place of business as defined in section 60-1401.02, subdivision (25), the license shall expire forthwith. The executive secretary shall notify the licensee personally or by mailing the notice by registered or certified mail to the last-known address of such license holder that his license is revoked until a bond as required by the provisions of section 60-1419 is furnished and approved in which event the license may be reinstated. Upon notice of the revocation or suspension of the license, the licensee shall immediately surrender the expired license to the executive secretary or his representative. If the license is suspended, the executive secretary or his representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties as provided in section 60-1416.

Sec. 10. That section 60-1415, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1415. The board shall state in writing, officially signed by the chairman or vice-chairman and the executive secretary, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that an applicant is not qualified to receive a license, no license shall be granted. If the board shall determine that the license holder has willfully or through undue negligence been guilty of any violation of the provisions of this act, or any rule or regulation adopted or made by the board under authority of the provisions of this act, his license may be suspended or revoked, or he may be placed on probation. The board shall may make a demand on a dealer or licensee for restitution to a harmed consumer. Should

the applicant for a license or a license holder desire to appeal from the decision of the board, he shall, within ten days, file an appeal bond with the board in the sum of one thousand dollars and he shall, within thirty days after service on him of the final decision or order of the board, file a petition in the district court in the county where such action was taken, which appeal shall be governed by the provisions of section 84-917. Pending the final determination of such action, he shall not, except as permitted by the court to which appeal is taken, be permitted to do business as a motor vehicle dealer, trailer dealer, motorcycle dealer, motor vehicle auction dealer, motor vehicle or trailer salesman, manufacturer, wholesaler, distributor, factory representative, factory branch, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, or finance company.

Sec. 11. That section 60-1417, Revised Statutes Supplement, 1976, be amended to read as follows:

60-1417. Every motor vehicle, motorcycle, or trailer sale, except between a manufacturer, ~~or~~ distributor, ~~or a dealer,~~ shall be evidenced by an instrument in writing upon a form that may be promulgated by the board and approved by the Attorney General which shall contain all the agreements of the parties and shall be signed by the buyer and seller or a duly acknowledged agent of the seller. Prior to or concurrent with any such motor vehicle, motorcycle, or trailer sale, the seller shall deliver to the buyer one instrument which shall contain the following information: (1) Name of seller; (2) name of buyer; (3) year of model and identification number; (4) cash sale price; (5) year and model of trailer and serial number, if any; (6) the amount of buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in; (7) the difference between subdivisions (4) and (6) of this section; (8) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (9) the basic time price, which is the sum of subdivisions (7) and (8) of this section; (10) the time price differential; (11) the amount of the time price balance, which is the sum of subdivisions (9) and (10) of this section payable in installments by the buyer to the seller; (12) the number, amount, and due date or period of each installment payment; (13) the time sales price; and (14) whether the sale is as is or subject to warranty and, if subject to warranty, specifying the warranty. A copy of all such instruments shall be retained in the file of the dealer for five years from the date of sale.

Sec. 12. That section 60-2303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2303. The transferor of any motor vehicle of ~~the model--year--1969--or--later~~ an age of less than twenty-five years, which was equipped with an odometer by the manufacturer, shall provide to the buyer a statement signed by the transferor. Such statement shall (1) set forth the mileage on the odometer at the time of transfer and (2) state that, to the transferor's best knowledge, such mileage is that actually driven by the motor vehicle, or (3) if the transferor has knowledge that the mileage shown on the odometer is not that actually driven, state the actual mileage to the best of the transferor's knowledge and belief.

Sec. 13. That section 60-2305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2305. No licensed motor vehicle dealer shall have in his possession as inventory for sale any used motor vehicle of ~~the model-year-1969-or-later~~ an age of less than twenty-five years, acquired by such dealer after September 1, 1972 for which he does not have in his possession the transferor's statement required by sections 60-2301 to 60-2307 unless a certificate of title has been issued for such motor vehicle in the name of the dealer. Violation of sections 60-2301 to 60-2307 shall be grounds for suspension or revocation of a motor vehicle dealer's license under the provisions of Chapter 60, article 14.

Sec. 14. That original sections 60-107, 60-1413, 60-2303, and 60-2305, Reissue Revised Statutes of Nebraska, 1943, and sections 60-1401.02, 60-1402, 60-1406, 60-1409, 60-1411.01, 60-1411.02, 60-1415, and 60-1417, Revised Statutes Supplement, 1976, and section 60-320, Revised Statutes Supplement, 1977, are repealed.