

## LEGISLATIVE BILL 825

(CORRECTED)

Approved by the Governor April 9, 1984

Introduced by DeCamp, 40; Remmers, 1; Lundy, 36; Kahle, 37; Goll, 16; Barrett, 39; Chronister, 18; Clark, 47; R. Johnson, 34; L. Johnson, 15; H. Peterson, 35; Beyer, 3; Jacobson, 33; Von Minden, 17; Morehead, 30; Eret, 32; Withem, 14; R. Peterson, 21; Carsten, 2; Hefner, 19; Sieck, 24

AN ACT relating to vehicles; to amend sections 60-108, 60-320.01, 60-343, 60-1404, 60-1406, 60-1407.01, 60-1411.01, 60-1413, 60-1415 to 60-1417, 60-1419, 60-1429, 60-1430, 60-2303, 60-2304, and 60-2307, Reissue Revised Statutes of Nebraska, 1943, sections 60-320, 60-1411.02, 60-1411.03, and 60-1414, Revised Statutes Supplement, 1982, and sections 60-106, 60-115, 60-118, 60-122 to 60-124, 60-130, 60-1401.02, and 60-1417.01, Revised Statutes Supplement, 1983; to change provisions relating to certificates of title, motor vehicle registration, and the sale of motor vehicles and trailers as prescribed; to change duties; to provide duties; to change fees as prescribed; to define and redefine terms; to change provisions relating to certain inspections, dealer plates, licenses, and permits; to prohibit certain acts; to provide remedies; to provide for succession to certain dealerships; to harmonize provisions; to change penalties; 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 60-106, Revised Statutes Supplement, 1983, be amended to read as follows:

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

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

(3) If a certificate of title has previously

been issued for such motor vehicle in this state, the application for a new certificate of title shall be accompanied by such certificate of title duly assigned, unless otherwise provided for in this act. If a certificate of title has not previously been issued for such motor vehicle in this state, such application, unless otherwise provided for in this act, shall be accompanied by a manufacturer's or importer's certificate, as provided for in this act, a duly certified copy thereof, a certificate of title, a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the other state from which such motor vehicle was brought into this state does not have a certificate of title law. The county clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(4) The county clerk shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motor vehicles in his or her office. If he or she is satisfied that the applicant is the owner of such motor vehicle and that the application is in the proper form, the county clerk shall issue a certificate of title over his or her signature and sealed with his or her seal, but not otherwise.

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

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

(7) An application for a certificate of title shall include a statement that an identification

inspection has been conducted on the vehicle unless (a) the title sought is a salvage certificate of title as defined in section 60-129, the vehicle is a motereyale as defined in section 60-301; (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, ~~or~~ an importer's statement of origin, or a United States Government Certificate of Release of a motor vehicle, or (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09. Such statement shall be furnished by the county sheriff of the county in which application is made or by any other holder of a current certificate of training and shall be in a format as determined by the department. The clerk may accept a certificate of inspection, approved by the Department of Motor Vehicles, from an officer of a state police agency of another state. For each inspection, conducted by a peace officer, a fee of ten dollars shall be paid to the county treasurer, and for each inspection conducted by an individual other than a peace officer a fee of five dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county clerk shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, or if there is reason to believe further inspection is necessary, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. If the person performing the inspection is not a peace officer, the sheriff shall provide, or cause to be provided, the National Crime Information Center and the Nebraska Crime Information Service record check. The person performing the inspection shall notify the sheriff if there is reason to believe further inspection is necessary or if the vehicle is not the vehicle described by the ownership records and a peace officer shall complete the inspection and initiate such further investigation as may be warranted. If there is cause to believe that odometer

fraud exists, written notification shall be given to the Department of Motor Vehicles Attorney General's office. 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 60-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-108. The Department of Motor Vehicles shall issue such regulations as it may deem necessary to insure uniform and orderly operation of this act, and the clerks of all counties shall conform ~~thereto~~ to such regulations and act at the direction of the department. The department shall also provide the clerks of all counties with the necessary training for the proper administration of Chapter 60, article 1. The department shall receive and file in its office all instruments forwarded to it by the county clerks, under the provisions of this act, and shall maintain indices covering the state at large for the instruments so filed. These indices shall be by motor number or by an identification number as provided for in section 60-302 and alphabetically by the owner's name and shall be for the state at large and not for individual counties. The department shall provide and furnish the forms required by section 60-114, except manufacturers' or importers' certificates. The department shall check with its records all duplicate certificates of title received from the county clerks. If it appears that a certificate of title has been improperly issued, the department shall have the power, and it shall be its duty, to cancel the same. Upon cancellation of any certificate of title, the department shall notify the county clerk who issued the same, and such county clerk shall thereupon enter the cancellation upon his or her records. The department shall also notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of such certificate of title, but the cancellation shall not affect the validity of any lien noted thereon. The holder of such certificate of title shall return the same to the department forthwith. If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the same and demand the return of such certificate of registration and license plates or tags, and the holder of such certificate of registration and license plates or tags shall return the same to the department forthwith. The county clerk shall keep on hand a sufficient supply of blank forms which, except certificate of title and forms, shall be furnished and distributed without charge to

manufacturers, licensed dealers, or other persons residing within the county.

Sec. 3. That section 60-115, Revised Statutes Supplement, 1983, be amended to read as follows:

60-115. The clerks of the various counties shall charge a fee of six dollars for each replacement or duplicate copy of a certificate of title, and the duplicate copy issued which shall show only those unreleased liens of record. A fee of four dollars shall be charged for refiling a certificate of title pursuant to section 60-107.01. Such fees shall be retained by the county. In addition to the foregoing fees, the clerks of the various counties shall charge a fee of six dollars for each certificate of title, and a fee of three dollars for each notation of any lien on a certificate of title. The clerks of the various counties shall retain for the county three dollars and twenty-five cents of the six dollars charged for each certificate of title, and two dollars for each notation of lien. Two dollars charged for the certificate of title and the remaining one dollar charged for notation of any lien on a certificate of title shall be paid to the State Treasurer to be credited to the state General Fund. ~~Twenty-five~~ Fifty cents of the fee for a certificate of title shall be paid to the State Treasurer to be credited to a fund to be administered by the Consumer Protection Division of the Attorney General's office at the direction of the Attorney General for the ~~purpose~~ purposes of the investigation and prosecution of (1) odometer and motor vehicle fraud and (2) motor vehicle licensing violations, which may be referred by the Nebraska Motor Vehicle Industry Licensing Board. ~~investigation and prosecution.~~ The remaining ~~twenty-five~~ fifty cents charged for the certificate of title shall be paid to the State Treasurer to be credited to the Title Security and Vehicle Theft Prevention Fund created in section 60-119. The clerks of the various counties shall remit all funds due the State Treasurer under this act monthly and not later than the fifth day of the month following the collection thereof. The clerks of the various counties shall remit fees not due the State of Nebraska to their respective county treasurers who shall credit such fees so remitted to the county general fund.

Sec. 4. That section 60-118, Revised Statutes Supplement, 1983, be amended to read as follows:

60-118. For purposes of sections 60-106 and 60-118 to 60-128, unless the context otherwise requires:

- (1) Department shall mean the Department of Motor Vehicles;
- (2) Director shall mean the Director of Motor Vehicles; and
- (3) Inspection shall mean an identification inspection conducted pursuant to section 60-106. <sup>7</sup>
- ~~(4) Licensee shall mean a person having a~~

current license pursuant to Chapter 60, article 14, including all officers, stockholders, partners, and other persons having a financial interest in the licensee; and

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

Sec. 5. That section 60-122, Revised Statutes Supplement, 1983, be amended to read as follows:

60-122. The sheriff may designate an employee of his or her office, any individual who is a peace officer, as listed in section 39-6,192, or, by agreement, a county clerk, licensee, or an employee of a licensee to assist in accomplishing inspections. Upon designation the person shall request approval for training from the director. Any person requesting approval for training shall submit a written application to the department. Such application shall include the following information: (1) The name and address of the applicant, (2) the name and address of the sponsoring licensee, if the applicant is not a peace officer; (3) (2) the name and address of the agency employing the applicant and the name of the agency head, if the applicant is a peace officer; and (4) (3) such biographical information as the director may require to facilitate an investigation of the applicant's qualifications and character the designation authorized by this section.

Sec. 6. That section 60-123, Revised Statutes Supplement, 1983, be amended to read as follows:

60-123. (1) Upon receipt of an application for training pursuant to section 60-122 the department may inquire into the qualifications of the applicant and may request the Nebraska State Patrol to inquire into the background of the applicant. If the applicant is a licensee the chief officer of such licensee shall serve as the individual making application, except that the inquiry into qualifications and background may, at the discretion of the director, include any person who is an officer, stockholder, partner, or has any other financial interest in the licensee.

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

(a) if the applicant is a peace officer, licensee, or an employee of a sponsoring licensee, has (i) (a) knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers, or parts therefor, (ii) (b) been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion, or (iii) (c) made a false material statement in his or her application; 7

(b) if the applicant is a licensee, (i) has-

within the previous five years, violated subdivision (3), (6) through (9), (13), (14), (15), (17), or (18) of section 60-1411-02, (ii) has, within the previous five years, had a license, issued under Chapter 60, article 14, suspended for violation of any provision enumerated in subdivision (b)(i) of this subsection, (iii) has had his or her license, issued pursuant to Chapter 60, article 14, revoked for any reason, or (iv) does not have a permanent business location with adequate inspection facilities including a hoist; or

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

Sec. 7. That section 60-124, Revised Statutes Supplement, 1983, be amended to read as follows:

60-124. The department may, after notice and a hearing, revoke a certificate issued pursuant to sections 60-118 to 60-128. The department shall only be required to hold a hearing if the hearing is requested in writing within fifteen days after notice of the proposed revocation is delivered by the department. The department may revoke a certificate for any reason for which an applicant may be denied approval for training pursuant to section 60-123. The department shall revoke the certificate of any employee of a sponsoring licensee if such employee ceases employment with the sponsoring licensee whose name appears on the application submitted to the department. The department may revoke a certificate if the holder fails to keep a certificate current by taking any additional training the department may require. The department may revoke a certificate if the department finds that the holder is incompetent. A rebuttable presumption of incompetence shall arise from a finding by the department or a court of competent jurisdiction that the certificate holder has issued a statement of inspection for a stolen vehicle. Any person who feels himself or herself aggrieved by the department's decision to revoke a certificate may appeal such decision to the appropriate district court in the manner provided in section 60-420.

Sec. 8. That section 60-130, Revised Statutes Supplement, 1983, 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 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. 9. That section 60-320, Revised Statutes Supplement, 1982, 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 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 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. 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~~ 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 vehicles 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 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

vehicle the dealer has been authorized by the Motor Vehicle Industry Licensing Board to sell and demonstrate 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, Provided, 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, 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, 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 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 or her hereunder, and such record shall be available to the department for inspection. Each applicant hereunder must 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 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 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 section 60-320 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. 10. 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 ten days. Upon transfer of such motor vehicle, the seller shall deliver to the buyer a certificate giving the name and address of the seller, the name and address of the buyer, and the date of delivery of the motor vehicle. The certificate shall be in such form as shall be prescribed by the Department of Motor Vehicles, and shall be carried by the buyer while driving the motor vehicle until the new registration is issued. Such certificates shall be supplied by the Department of Motor Vehicles to each county treasurer. Upon demand of proper authorities, there shall be presented by the person in charge of such vehicle, for examination, a the certificate showing the date of transfer and the certificate of title to such vehicle with assignment thereof duly executed. When ; Provided, 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 ten 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. 11. That section 60-343, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-343. Any person who shall register or cause to be registered any motor vehicle, trailer, semitrailer, or cabin trailer in the name of any person other than the owner thereof or who shall give a false or fictitious name or false or fictitious post office address of the registrant or who gives false information pursuant to section 60-302 in any application for registration of a motor vehicle, trailer, semitrailer, or cabin trailer shall be deemed guilty of a Class III misdemeanor.

Sec. 12. That section 60-1401.02, Revised Statutes Supplement, 1983, be amended to read as follows:

60-1401.02. As used in ~~this act, and sections 60-2601 to 60-2607~~ Chapter 60, article 14, and sections 60-2601 to 60-2607, unless the context otherwise requires:

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

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

(3) Trailer dealer shall mean any person engaged in the business of selling or exchanging new or used trailers, and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used trailers in any one calendar year shall be deemed to be a trailer dealer and subject to the provisions of ~~this act~~ Chapter 60, article 14;

(4) Wrecker or salvage dealer shall mean any person who acquires one or more motor vehicles or trailers

solely for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap;

(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. A new motor vehicle shall not be considered a used motor vehicle until it has been placed in a bona fide consumer use, notwithstanding the number of transfers of such motor vehicle. Bona fide 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. 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 Chapter 60, article 14;

(9) Motorcycle dealer shall mean any person engaged in the business of selling or exchanging new or used motorcycles as defined in this section and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used motorcycles in any one calendar year shall be deemed to be a motorcycle dealer and subject to the provisions of this act Chapter 60, article 14;

(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, except such vehicles as are eligible for registration pursuant to section 60-305.09, 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. The holding of a farm auction or an occasional motor vehicle or trailer auction of not more than two auctions in a calendar year shall not be construed as constituting an auction subject to Chapter 60, article 14;

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

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

(14) Motor vehicle, motorcycle, or trailer salesperson 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 salesperson is working for two or more dealerships with common ownership, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers. A person owning any part of more than one dealership may be a salesperson 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 Chapter 60, article 14;

(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~~ Chapter 60, article 14;

(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 the franchisor's distribution system;

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

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

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

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

(22) Community shall mean a 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, salesperson, or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering or attempting to negotiate the

sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing thereof with a right or option to purchase under the terms of the lease;

(25) Established place of business shall mean a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted by the public during posted at all reasonable business hours by the public which shall be not less than forty hours per week. The established place of business shall have the following facilities: (a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by any peace officer or investigator employed or designated by the board. Dealers shall, upon demand of the board's investigator, furnish copies of records so required when conducting any investigation of a complaint; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles, or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business, or in lieu of such repair facilities the licensee may enter into a contract for the provision of such service and file a copy thereof annually with the board and shall furnish to each buyer a written statement as to where such service will be provided as required by section 60-1417. The service facility shall be located in the same county as the licensee, unless the board specifically authorizes the facility to be located elsewhere. Such facility shall maintain regular business hours and shall have suitable repair equipment and facilities to service and inspect the type of vehicles sold by the licensee. Investigators of the board may certify ongoing compliance with the service and inspection facilities or repair facilities; 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 during the required posted business hours. 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 Chapter 60, article 14. The above requirements shall not apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license; ~~7~~ except that such place of business shall have a sound and well-maintained sign which is legible from a public road and displayed with letters of not less than eight inches in height identifying such supplemental place of business and inspections shall be allowed as provided in subdivision (a) of this subsection.

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

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

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

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

(30) Scrap metal processor shall mean any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal, or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles, or motorcycles, or major component parts without obtaining a wrecker or salvage dealer license; and

(31) Designated family member shall mean the spouse, child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will, who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of such dealership, has been appointed by a court as the legal representative of the new motor vehicle dealer's property; and

(32) ~~(31)~~ This act shall mean Chapter 60, article 14, and sections 19 to 22, 29, 31, and 34 of this act.

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. 13. That section 60-1404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1404. The board shall have the authority to employ an executive director who shall direct and administer the affairs of the board and shall employ an executive secretary who shall keep a record of all proceedings, transactions, communications, and official acts of the board. He or she shall be custodian of all records of the board and perform such other duties as the board may require. The executive director secretary shall call a meeting of the board at the direction of the chairperson chairman thereof or upon a written request of two or more members thereof. The executive director, with the approval of the board, is authorized to employ an attorney at a minimum salary of six hundred dollars per month together with such other employees, including staff for its attorney, as may be necessary to properly carry out Chapter 60, article 14, the provisions of sections 60-1401 to 60-1435, to fix the salaries of such employees, and to make such other expenditures as are necessary to properly carry out the provisions of sections 60-1401 to 60-1435 Chapter 60, article 14. The office of the board shall be maintained in the State Capitol at Lincoln and all files, records, and property of the board shall at all times be and remain therein. The executive director shall be the board's representative in the administration of Chapter 60, article 14, and he or she shall insure that the policies and directives of the board are carried out.

Sec. 14. That section 60-1406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1406. Licenses issued by the board under Chapter 60, article 14, 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 or she 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 salesperson salesman and the name of such authorized

person shall appear on the license;

(2) Motor vehicle, motorcycle, or trailer salesperson ~~salesman~~ license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer ~~salesman~~ salesperson as defined in section 60-1401.02. This license shall permit the one person named thereon to act as a ~~salesman~~ salesperson;

(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) 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;

(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 or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(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 or she is the individual owner of such licensed business, or a stockholder, officer, or copartner of such licensee, to act as a motorcycle salesperson salesman and the name of such authorized person shall appear on the license; and

(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 or she 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 salesperson salesman and the name of the authorized person shall appear on the license.

Sec. 15. That section 60-1407.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1407.01. Upon the filing of any application, a staff member of the board shall endorse on it the date of filing. If no patent disqualification of the applicant is disclosed or if no valid objection to the granting of the application is apparent and if all requirements relative to the filing of the application appear to have been complied with, the chairman chairperson of the board or executive secretary director shall refer the application to a staff member for investigation and report. The report shall include:

(1) A statement as to whether or not the applicant or any person holding any financial interest in the applicant is for any reason disqualified by this act from obtaining or exercising a license and whether or not the applicant has complied with all the requirements of this act relative to the making and filing of his or her application;

(2) Information relating to any and all other matters and things which in the judgment of the staff member pertain to or affect the matter of the application or the issuance or exercise of the license applied for; and

(3) In the case of an application for a dealer's license, in addition to the foregoing:

(a) A description of the premises intended to become the licensed premises, and the equipment and surrounding conditions;

(b) If the applicant has held a prior dealer's license for the same or any other premises within two years past, a statement as to the manner in which the premises have been operated and the business conducted



under the previous license; and

(c) If the applicant proposes to engage in the business of selling new motor vehicles, motorcycles, or trailers a written statement from the applicable manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or such other evidence as prescribed by the board, that the applicant is authorized to sell or distribute such new motor vehicles.

After the filing of the report, the board may interview the applicant and notice of such interview must be given at least ten days prior to the interview.

The executive director shall not issue a license to any applicant or renew the license of any licensee if such applicant or licensee does not maintain an established place of business as described in section 60-1401.02 or meet the requirement for a bond pursuant to section 60-1419. The executive director may not renew a motor vehicle dealer's license if such dealer cannot prove that he or she sold at least seven motor vehicles during the previous licensing period.

Sec. 16. That section 60-1411.01, Reissue Revised Statutes of Nebraska, 1943, 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, one two hundred dollars; (2) supplemental motor vehicle dealer's license, ten dollars; (3) motor vehicle or motorcycle salesperson's ~~salesman's~~ license, ten three dollars; (4) motor vehicle, motorcycle, or trailer manufacturer's license, three hundred dollars; (5) distributor's license, three hundred dollars; (6) factory representative's license, ten dollars; (7) distributor representative's license, ten dollars; (8) finance company's license, two hundred fifty dollars; (9) wrecker or salvage dealer's license, one hundred fifty dollars; (10) factory branch license, one hundred fifty dollars; (11) motorcycle dealer's license, one two hundred dollars; and (12) motor vehicle auction dealer's license, two 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. 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 twenty-five 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. 17. That section 60-1411.02, Revised Statutes Supplement, 1982, 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 salesperson, 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 or her under Chapter 60, article 14, 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, 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 address location of his or her established place or places of business and in the case of a salesperson salesman 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 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, the provisions of this act and any orders, rules, or regulations of the board adopted and promulgated under the act 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 Chapter 60, article 14, or the provisions of this act or rules or regulations adopted and promulgated by the board under the provisions thereof 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 salesman salesperson or salesmen salespersons;

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

(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. 18. That section 60-1411.03, Revised Statutes Supplement, 1982, be amended to read as follows:

60-1411.03. It shall be unlawful for any licensee to engage, directly or indirectly, in the following acts:

(1) To advertise and offer any year, make, engine size, model, type, equipment, price, trade-in allowance, terms, or make other claims or conditions pertaining to the sale, leasing, or rental of motor vehicles, motorcycles, and trailers which are not truthful and clearly set forth;

(2) To advertise for sale, lease, or rental a specific motor vehicle, motorcycle, or trailer which is not in possession of the dealer, owner, or advertiser and willingly shown and sold, as advertised, illustrated, or described, at the advertised price and terms, at the advertised address. Unless 7 Provided, that unless

otherwise specified, a motor vehicle, motorcycle, or trailer advertised for sale shall be in operable condition and on request, the advertiser thereof shall show records to substantiate an advertised offer;

(3) To advertise a new motor vehicle, motorcycle, or trailer at a price which does not include standard equipment with which it is fitted or is ordinarily fitted, without disclosing such fact, or eliminating any such equipment for the purpose of advertising a low price;

(4) To advertise (a) that the advertiser's prices are always or generally lower than competitive prices and not met or equalled by others or that the advertiser always or generally undersells competitors; (b) that the advertiser's prices are always or generally the lowest or that no other dealer has lower prices; (c) that the advertiser is never undersold; or (d) that no other advertiser or dealer will have a lower price;

(5) To advertise and make statements such as, Write Your Own Deal, Name Your Own Price, Name Your Own Monthly Payments, and other statements of a similar nature;

(6) To advertise by making disparaging comparisons with competitors' services, quality, price, products, or business methods;

(7) To advertise by making the layout, headlines, illustrations, and type size of an advertisement so as to convey or permit an erroneous impression as to which motor vehicle, motorcycle, or trailer or motor vehicles, motorcycles, or trailers are offered at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, or savings, shall be misleading by itself, and any qualification to such offer, expression, or display shall be clearly and conspicuously set forth in comparative type size and style, location, and layout, to prevent deception;

(8) To advertise the price of a motor vehicle, motorcycle, or trailer without including all charges which the customer must pay for the motor vehicle, motorcycle, or trailer, excepting state and local tax, and license, and title fees. It is provided that it shall be unlawful to advertise prices described as unpaid balance, unless they are the full cash selling price and to advertise price which is not the full selling price even though qualified with expressions such as with trade, with acceptable trade, or other similar words;

(9) To advertise as at cost, below cost, below invoice, or wholesale, unless the term used shall be strictly construed that the word cost, as used above or in a similar meaning, shall be the actual price paid by the advertiser to the manufacturer for the motor vehicle, motorcycle, or trailer so advertised;

(10) To advertise claims that Everybody

Financed, No Credit Rejected, We Finance Anyone, and other similar affirmative statements;

(11) To advertise a specific trade-in amount, or range of amounts;

(12) To advertise the words Finance, Loan, Discounts, or others of similar import, in the firm name or trade style of a person offering motor vehicles, motorcycles, and trailers for sale, unless such person is actually engaged in the finance business and offering only bona fide repossessed motor vehicles, motorcycles, and trailers. It is provided that it is unlawful to use the word Repossessed in the name or trade style of a firm in the advertising of motor vehicles, motorcycles, and trailers sold by such a company unless they are bona fide repossessions sold for unpaid balances due only. Advertisers, and provided further, that advertisers offering repossessed automobiles for sale must be able to offer proof of repossession;

(13) To advertise the term Authorized Dealer in any way as to mislead as to the make or makes of motor vehicles, motorcycles, or trailers for which a dealer is franchised to sell at retail;

(14) To advertise or sell new motor vehicles, motorcycles, and trailers by any person not enfranchised by the manufacturer of the motor vehicle, motorcycle, or trailer offered without disclosing the fact that the licensee is not enfranchised by the manufacturer for service under factory warranty provisions;

(15) To advertise used motor vehicles, motorcycles, or trailers so as to create the impression that they are new. Used is provided that (a) used motor vehicles, motorcycles, and trailers of the current and preceding model year must be clearly identified as Used, Executive Driven, or Demonstrator, or Driver Training, and lease cars, taxicabs, fleet vehicles, police motor vehicles, or motorcycles as may be the case and descriptions such as Low Mileage, Slightly Driven may also be applied only when correct. The (b) the terms demonstrator's, executive's, and official's motor vehicles, motorcycles, or trailers shall not be used unless they have never been sold to a member of the public and unless such terms describe motor vehicles, motorcycles, or trailers used by new motor vehicle, motorcycle, or trailer dealers or their employees for demonstrating performance ability and unless such vehicles are advertised for sale as such only by an authorized dealer in the same make of motor vehicle, motorcycle, or trailer. Phrases (c) phrases such as Last of the Remaining, Closeout, Final Clearance, and others of similar import shall not be used in advertising used motor vehicles, motorcycles, and trailers so as to convey the impression that the motor vehicles, motorcycles, and trailers offered are holdover new motor vehicles,

motorcycles, and trailers. When ~~7~~ and ~~(d)~~ when new and used motor vehicles, motorcycles, and trailers of the current and preceding model year are offered in the same advertisement, such offers shall be clearly separated by description, layout, and art treatment;

(16) To advertise executives' or officials' motor vehicles, motorcycles, or trailers unless they have been used exclusively by the personnel or executive of the motor vehicle, motorcycle, or trailer manufacturer or by an executive of any authorized dealer of the same make thereof and such motor vehicles, motorcycles, and trailers have not been sold to a member of the public prior to the appearance of the advertisement;

(17) To advertise motor vehicles, motorcycles, and trailers, owned by or in the possession of dealers, without the name of the dealership or in any other manner so as to convey the impression that they are being offered by private parties;

(18) To advertise the term wholesale in connection with the retail offering of used motor vehicles, motorcycles, and trailers;

(19) To advertise terms auction or auction special and other terms of similar import unless such terms shall be used in connection with motor vehicles, motorcycles, and trailers offered or sold at a bona fide auction; to the highest bidder and under such other specific conditions as may be required in this act;

~~(20) To advertise equipment, accessory, or other merchandise as free (a) if its cost, or any part of its cost, is included in the price of the motor vehicle, motorcycle, or trailer; (b) if it is offered contingent upon any sale; or (c) if the motor vehicle, motorcycle, or trailer can be purchased for a lesser price without such equipment, accessory, or merchandise;~~

(20) ~~(21)~~ To advertise free driving trial, unless it means a trial without obligation of any kind and that the motor vehicle, motorcycle, or trailer may be returned in the period specified, without obligation or cost. A 7 Provided, that a driving trial advertised on a money back basis, or with privilege of exchange or applying money paid on another motor vehicle, motorcycle, or trailer, shall be so explained. Terms and conditions of driving trials, free or otherwise, shall be set forth in writing for the customer;

(21) ~~(22)~~ To advertise (a) the term Manufacturer's Warranty, unless it is used in advertising only in reference to cars covered by a bona fide factory warranty for that particular make of motor vehicle, motorcycle, or trailer. In 7 Provided, that in the event only a portion of such warranty is remaining, then reference to a warranty may be used only if stated that that unused portion of the warranty is still in effect; (b) the term New Car Guarantee, except in connection with new



motor vehicles, motorcycles, and trailers; and (c) the terms Ninety-day Warranty, Fifty-fifty Guarantee, Three hundred mile Guarantee, and Six-month Warranty, unless the major terms and exclusions are sufficiently described in the advertisement;

(22) (23) To advertise representations inconsistent with or contrary to the fact that a motor vehicle, motorcycle, or trailer is sold as is and without a guarantee. The ; Provided; that the customer contract shall clearly indicate when a car will be sold with a guarantee and what that guarantee is, and similarly shall clearly indicate when a car is sold as is and without a guarantee; and

(23) (24) To advertise or to make any statement, declaration, or representation in any advertisement that cannot be substantiated in fact, and the burden of proof of the factual basis for such statement, declaration, or representation is on the licensed dealer and not on the board.

Sec. 19. A manufacturer or distributor shall not require or coerce any new motor vehicle dealer in this state to do any of the following:

(1) Order or accept delivery of any new motor vehicle, part or accessory, equipment, or other commodity not required by law which was not voluntarily ordered by the new motor vehicle dealer. This section shall not be construed to prevent the manufacturer or distributor from requiring that new motor vehicle dealers carry a reasonable inventory of models offered for sale by the manufacturer or distributor;

(2) Offer or accept delivery of any new motor vehicle with special features, accessories, or equipment not included in the list price of the new motor vehicle as publicly advertised by the manufacturer or distributor;

(3) Participate monetarily in any advertising campaign or contest or purchase any promotional materials, display devices, or display decorations or materials at the expense of the new motor vehicle dealer;

(4) Enter into any agreement with the manufacturer or distributor or do any other act prejudicial to the new motor vehicle dealer by threatening to terminate a dealer agreement or any contractual agreement or understanding existing between the dealer and the manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer agreement shall not constitute a violation of Chapter 60, article 14;

(5) Change the capital structure of the new motor vehicle dealership or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria;

(6) Refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products as long as the dealer maintains a reasonable line of credit for each make or line of vehicle, remains in compliance with reasonable facilities requirements, and makes no change in the principal management of the dealer;

(7) Prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by Chapter 60, article 14, or require any controversy between the new motor vehicle dealer and a manufacturer or distributor to be referred to a person other than the duly constituted courts of the state or the United States, if the referral would be binding upon the new motor vehicle dealer; and

(8) Change the location of the new motor vehicle dealership or make any substantial alterations to the dealership premises, if such changes or alterations would be unreasonable.

Sec. 20. In addition to the restrictions imposed by section 19 of this act, a manufacturer or distributor shall not:

(1) Fail to deliver new motor vehicles or new motor vehicle parts or accessories within a reasonable time and in reasonable quantities relative to the new motor vehicle dealer's market area and facilities, unless the failure is caused by acts or occurrences beyond the control of the manufacturer or distributor or unless the failure results from an order by the new motor vehicle dealer in excess of quantities reasonably and fairly allocated by the manufacturer or distributor;

(2) Refuse to disclose to a new motor vehicle dealer the method and manner of distribution of new motor vehicles by the manufacturer or distributor;

(3) Refuse to disclose to a new motor vehicle dealer the total number of new motor vehicles of a given model which the manufacturer or distributor has sold during the current model year within the dealer's marketing district, zone, or region, whichever geographical area is the smallest; or

(4) Increase the price of any new motor vehicle which the new motor vehicle dealer had ordered and delivered to the same retail consumer for whom the vehicle was ordered, if the order was made prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer and binding on the dealer shall constitute evidence of such order. In the event of manufacturer or distributor price reduction or cash rebate, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer. Any price reduction in excess of five dollars shall apply to all vehicles in the dealer's inventory which were



subject to the price reduction. A price difference applicable to a new model or series of motor vehicles at the time of the introduction of the new model or series shall not be considered a price increase or price decrease. This subdivision shall not apply to price changes caused by the following:

(a) The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;

(b) In the case of foreign-made vehicles or components, revaluation of the United States dollar; or

(c) Any increase in transportation charges due to an increase in rates charged by a common carrier or other transporter.

Sec. 21. (1) Each new motor vehicle manufacturer or distributor shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer's obligations for preparation, delivery, and warranty service on its products. The manufacturer or distributor shall compensate the new motor vehicle dealer for warranty service which such manufacturer or distributor requires the dealer to provide. The manufacturer or distributor shall provide the new motor vehicle dealer with the schedule of compensation to be paid to the dealer for parts, work, and service and the time allowance for the performance of the work and service.

(2) The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the prevailing wage rates being paid by dealers in the community in which the dealer is doing business, and in no event shall the compensation of the dealer for warranty labor be less than the rates charged by the dealer for like service to retail or fleet customers, as long as such rates are reasonable.

(3) A manufacturer or distributor shall not do any of the following:

(a) Fail to perform any warranty obligation;

(b) Fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of the defects; or

(c) Fail to compensate any of the new motor vehicle dealers licensed in this state for repairs effected by the recall.

(4) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the manufacturer or

distributor within thirty days after their receipt on a proper form generally used by the manufacturer or distributor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. The manufacturer has the right to audit the claims for two years after payment and to charge back to the new motor vehicle dealer the amount of any false, fraudulent, or unsubstantiated claim.

Sec. 22. (1) The new motor vehicle dealer shall be solely liable for damages to new motor vehicles after acceptance from the carrier and before delivery to the ultimate purchaser. A delivery receipt signed by a new motor vehicle dealer shall be evidence of such dealer's acceptance of any new motor vehicles.

(2) The manufacturer or distributor shall be liable for all damages to motor vehicles before delivery to a carrier or transporter and while such vehicles are on the carrier or transporter, except that if the new motor vehicle dealer selected the method and mode of transportation and the carrier or transporter, then such dealer shall be liable for damages to any new motor vehicles after delivery to the carrier or transporter.

Sec. 23. 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 registration, as described in section 29 of this act, or before revoking or suspending any license or registration 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 or her 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 salesperson, the board shall also notify the dealer employing him or her or whose employ he or she 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. 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 director 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 or her 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 director secretary or his or her representative. If the license is suspended, the executive secretary director or his or her representative shall return the license to the licensee at the time of the conclusion of the period of suspension. Failure to surrender the license as required in this section shall subject the licensee to the penalties as provided in section 60-1416.

Sec. 24. That section 60-1414, Revised Statutes Supplement, 1982, be amended to read as follows:

60-1414. In the preparation and conduct of such hearings, the members of the board and executive director secretary shall have the power to require the attendance and testimony of any witness and the production of any papers or documents in order to assure a fair trial. They may sign and issue subpoenas therefor and administer oaths and examine witnesses, and take any evidence they deem pertinent to the determination of the charges. Any witnesses so subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district court of this state in a civil action and mileage at the same rate provided in section 84-306.03 for state employees. The payment of such fees and mileage must be out of and kept within the limits of the funds provided for the administration of the board. The party against whom such charges may be filed shall have the right to obtain from the executive director secretary a subpoena for any witnesses which he or she may desire at such hearing and depositions may be taken as in civil court cases in the district court. Any information obtained from the books and records of the person complained against may not be used against the person complained against as the basis for a criminal prosecution under the laws of this state.

Sec. 25. That section 60-1415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1415. The board shall state in writing, officially signed by the chairperson chairman or vice-chairperson vice-chairman and the executive secretary director, 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

Chapter 60, article 14, or any rule or regulation adopted or made by the board under authority of the provisions of this act Chapter 60, article 14, his or her license may be suspended or revoked, or he or she may be placed on probation. The board 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 or she shall, within ten days, file an appeal bond with the board in the sum of one thousand dollars and he or she shall, within thirty days after service on him or her 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 or she 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 salesperson, manufacturer, wholesaler, distributor, factory representative, factory branch, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, or finance company.

Sec. 26. That section 60-1416, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1416. Any person acting as a motor vehicle or trailer dealer, motor vehicle or trailer salesman salesperson, manufacturer, distributor, factory representative, wholesaler, wrecker or salvage dealer, or distributor representative as defined in section 60-1401.02 without having first obtained the license provided in section 60-1406, shall be guilty of a Class ~~II~~ **misdeemeanor IV felony**.

Sec. 27. That section 60-1417, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1417. Every motor vehicle, motorcycle, or trailer sale, except between a manufacturer or distributor, 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; and (15) if repairs or inspections arising out of the conduct of a dealer's business cannot be provided by the dealer in any representations or warranties that may arise, the instrument shall so state that fact and shall provide the purchaser with the location of a facility where such repairs or inspections, as provided for in the service contract, can be accomplished. A copy of all such instruments shall be retained in the file of the dealer for five years from the date of sale. The dealer shall keep a copy of the odometer statement required by section 60-2303 which is furnished to him or her for each motor vehicle the dealer purchases or sells. The dealer shall keep such statements for five years from the date of the transaction as shown on the odometer statement.

Sec. 28. That section 60-1417.01, Revised Statutes Supplement, 1983, be amended to read as follows:

60-1417.01. Any prospective seller of a used motor vehicle or trailer at auction as described in section 60-1401.02 shall complete a buyer's information form approved by the board. The auction dealer shall be responsible for insuring that such form is prominently displayed on a window on the driver's side of the vehicle at the time such vehicle or trailer is displayed and being offered for sale at the auction.

The form prescribed by the board shall include, but not be limited to, the following information: (1) The make, (2) model, (3) year, (4) actual mileage if known, except for trailers, (5) vehicle identification number, (6) name and address of the present owner of the vehicle or trailer, (7) name and address of the previous owner, (8) the name and address of the person offering the vehicle for sale if such person is an employee or agent of the present owner, (9) the name and address of the person who has physical possession of the certificate of title, (10) a statement as to whether the title is available for inspection and transfer immediately upon the sale of the motor vehicle or trailer, and (11) whether the unit is subject to any kind of ride-and-drive provisions and can or cannot be rejected and returned for refund within a specific period.

The buyer's information form shall be in triplicate and signed by the seller or the seller's agent and the auction dealer. One copy of the form shall be

displayed on the unit as provided in this section, one copy shall be retained by the seller, and one copy shall be retained and maintained as a record by the auction dealer for a period of two years from the date offered for sale. When any dealer, except an auction dealer selling at auction, sells any unit on consignment, he or she shall take title to such unit in his or her own name, except that any dealer or other person, other than the owner of a used mobile home, selling a used mobile home shall not be required to take title but shall complete a buyer's information form approved by the board. The seller of the used mobile home shall be responsible for insuring that the form is prominently displayed in or on the home and that a copy of the form is delivered to the buyer prior to closing the sale of the used mobile home.

The buyer's information form shall include, but not be limited to, the following information (a) name and address of the record owner of the mobile home, (b) model, (c) year, and (d) serial number.

Sec. 29. Any person who engages in or attempts to engage in the selling of motor vehicles or trailers at an auction licensed pursuant to Chapter 60, article 14, shall register to do so. Registration shall be made on a form provided by the auction dealer and approved by the board. A copy of the registration shall serve as proof of registration for the calendar year. The original registration shall be sent to the board within seventy-two hours after the registrant has met the registration requirements and such registration is issued and a second copy of such registration shall be kept by the auction dealer for two years. It shall be the duty of the auction dealer to ensure that no seller participates in any sales activities until and unless registration has been received by the auction dealer or unless such seller is otherwise licensed under this act. The information required on the registration form shall include, but not be limited to, the following: (1) The legal name of the registrant; (2) the registrant's current mailing address and telephone number; (3) the business name and address of the person with whom the registrant is associated; and (4) whether or not the registrant is bonded. The registration form shall be signed by the registrant and an authorized representative of the auction and shall be notarized by a notary public.

Any person who is convicted of any violation of Chapter 60, article 14, pursuant to section 60-1411.02, may be denied the right to be registered at all licensed auctions of this state following a hearing before the board as prescribed in section 60-1413.

Sec. 30. That section 60-1419, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1419. Applicants for a motor vehicle dealer's license, trailer dealer's license, ~~wholesale~~ license, or motorcycle dealer's license shall, at the time

of making application, furnish a corporate surety bond in the penal sum of ~~ten~~ twenty thousand dollars, but for the year 1975 1985 and thereafter shall, at the time of making application, furnish a corporate surety bond in the penal sum of twenty-five ~~twenty~~ thousand dollars, and applicants for a motor vehicle auction dealer's license shall, at the time of making application, furnish a corporate surety bond in the penal sum of not less than one hundred thousand dollars, on a form to be prescribed by the Attorney General of the State of Nebraska. The bond shall provide (1) that the applicant will faithfully perform all the terms and conditions of such said license, (2) that the licensed dealer will fully indemnify any person or other dealer by reason of any loss suffered because of (a) the substitution of any motor vehicle or trailer other than the one selected by the purchaser, (b) the dealer's failure to deliver to the purchaser a clear and marketable title, (c) the dealer's misappropriation of any funds belonging to the purchaser, (d) any alteration on the part of the dealer so as to deceive the purchaser as to the year model of any motor vehicle or trailer, and (e) any false and fraudulent representations or deceitful practices whatever in representing any motor vehicle or trailer, and (3) that the motor vehicle, motorcycle, motor vehicle auction, or trailer dealer or wholesaler shall well, truly, and faithfully comply with all the provisions of his or her license and the acts of the Legislature relating thereto. The aggregate liability of the surety shall in no event exceed the penalty of such said bond.

Sec. 31. (1) Any person who is or may be injured by a violation of Chapter 60, article 14, or any party to a franchise whose business or property is damaged by a violation of Chapter 60, article 14, relating to that franchise may bring an action for damages and equitable relief, including injunctive relief.

(2) When a violation of Chapter 60, article 14, can be shown to be willful or wanton, the court shall award damages. If the manufacturer engages in continued multiple violations of Chapter 60, article 14, the court may, in addition to any other damages, award court costs and attorney's fees.

(3) A new motor vehicle dealer, if he or she has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that a violation of Chapter 60, article 14, by a manufacturer may have the effect of causing such loss of money or property.

(4) If any action to enforce any of the provisions of Chapter 60, article 14, is brought by a new motor vehicle dealer against a manufacturer and the new motor vehicle dealer prevails, he or she shall be awarded reasonable attorney's fees and the court shall assess costs against the manufacturer.

Sec. 32. That section 60-1429, Reissue Revised



Statutes of Nebraska, 1943, be amended to read as follows:

60-1429. Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the following shall not constitute good cause, as used in sections 60-1420 and 60-1422, for the termination or noncontinuance of a franchise, or for entering into a franchise for the establishment of an additional dealership in a community for the same line-make:

(1) The sole fact that the franchisor desires further penetration of the market;

(2) The change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership, unless the franchisor, having the burden of proof, proves that such change of ownership or executive management will be substantially detrimental to the distribution of franchisor's motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer products in the community; or

(3) The fact that the franchisee refused to purchase or accept delivery of any motor vehicle, combination motor vehicle and trailer, motorcycle, or trailer or vehicles, parts, accessories, or any other commodity or service not ordered by the franchisee.

Sec. 33. That section 60-1430, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1430. Notwithstanding the terms, provisions, or conditions or any agreement or franchise, subject to the provisions of subdivision (2) of section 60-1429, in the event of the sale or a contract for sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer or in the event of change in the executive management of the franchisee's dealership, the franchisor shall give effect to such a change in the franchise unless the transfer of the franchisee's license under this act is denied or the new owner is unable to obtain a license under this act as the case may be.

Sec. 34. (1) Any designated family member of a deceased or incapacitated new motor vehicle dealer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement if the designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the dealership within one hundred twenty days after the dealer's death or incapacity, agrees to be bound by all of the terms and conditions of the dealer agreement, and meets the current criteria generally applied by the manufacturer or distributor in qualifying new motor vehicle dealers. A manufacturer or distributor may refuse to honor the existing dealer agreement with the designated family member only for good cause.

(2) The manufacturer or distributor may request from a designated family member such personal financial

data as is reasonably necessary to determine whether the existing dealer agreement should be honored. The designated family member shall supply the personal and financial data promptly upon the request.

(3) If a manufacturer or distributor believes that good cause exists for refusing to honor that succession, the manufacturer or distributor may, within sixty days after receipt of the notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, or within sixty days after the receipt of the requested personal and financial data, whichever is later, serve upon the designated family member notice of its refusal to approve the succession.

(4) The notice of the manufacturer or distributor provided in subsection (3) of this section shall state the specific ground for the refusal to approve the succession and that discontinuance of the agreement shall take effect not less than ninety days after the date the notice is served.

(5) If notice of refusal is not served within the sixty days provided for in subsection (3) of this section, the dealer agreement shall continue in effect and shall be subject to termination only as otherwise permitted by Chapter 60, article 14.

(6) This section shall not preclude a new motor vehicle dealer from designating any person as his or her successor by written instrument filed with the manufacturer or distributor, and if such an instrument is filed, it alone shall determine the succession rights to the management and operation of the dealership.

Sec. 35. 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 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. The transferor shall retain a true copy of such statement for a period of five years from the date of the transaction.

Sec. 36. That section 60-2304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2304. The statement required by section 60-2303 shall be on the application for certificate of title and ~~or~~ on a form prescribed by the Department of Motor Vehicles. Such statement shall be submitted with the application for certificate of title, and the new

certificate of title in the name of the buyer shall have the mileage shown by such statement recorded thereon. No certificate of title shall be issued unless the application is accompanied by such statement.

Sec. 37. That section 60-2307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2307. Any person who violates the provisions of sections 60-2301 to 60-2307 shall be guilty of a Class ~~ii misdemeanor~~ IV felony.

Sec. 38. The Revisor of Statutes shall place sections 19 to 22, 29, 31, and 34 this act in Chapter 60, article 14.

Sec. 39. That original sections 60-108, 60-320.01, 60-343, 60-1404, 60-1406, 60-1407.01, 60-1411.01, 60-1413, 60-1415 to 60-1417, 60-1419, 60-1429, 60-1430, 60-2303, 60-2304, and 60-2307, Reissue Revised Statutes of Nebraska, 1943, sections 60-320, 60-1411.02, 60-1411.03, and 60-1414, Revised Statutes Supplement, 1982, and sections 60-106, 60-115, 60-118, 60-122 to 60-124, 60-130, 60-1401.02, and 60-1417.01, Revised Statutes Supplement, 1983, are repealed.

Sec. 40. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.