

LEGISLATIVE BILL 851

Approved by the Governor April 14, 1986

Introduced by Nichol, 48, Speaker, for the Governor

AN ACT relating to the Nebraska State Patrol; to amend sections 29-3524, 60-106, 60-115, 60-117, 60-118, 60-121 to 60-125, 60-127, and 81-2007, Reissue Revised Statutes of Nebraska, 1943, and section 60-119, Revised Statutes Supplement, 1985; to create a cash fund and a petty cash fund; to require reports and records as prescribed; to provide for the deposit of certain fees; to provide that the Nebraska State Patrol issue vehicle identification certificates; to change provisions relating to the disposition of certain fees; to provide additional violations; to define terms; to eliminate definitions; to provide for the use of funds; to change provisions relating to uniforms; to eliminate the Title Security and Vehicle Theft Prevention Fund; to harmonize provisions; to eliminate a provision allowing certain individuals to conduct inspections without a certificate of training; to provide operative dates; to repeal the original sections, and also section 60-128, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. There is hereby created the Nebraska State Patrol Cash Fund. Money from this fund shall be used to defray expenses incident to the administration of the Nebraska State Patrol. All funds received by the Nebraska State Patrol for services rendered shall be paid into the state treasury, and the State Treasurer shall credit the money to the Nebraska State Patrol Cash Fund. All money in the Title Security and Vehicle Theft Prevention Fund on June 30, 1986, shall be transferred to the Nebraska State Patrol Cash Fund. Such fund shall be administered by the Superintendent of Law Enforcement and Public Safety. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Allowable uses of the fund shall include, but not be limited to, defraying the cost of:

(1) The vehicle identification inspection program established in sections 60-118 to 60-127;

(2) Investigations of odometer and motor vehicle fraud, motor vehicle licensing violations, and motor vehicle theft; and

(3) Other investigative expenses when money is specifically appropriated by the Legislature for such purposes.

Sec. 2. The Superintendent of Law Enforcement and Public Safety may apply to the Director of Administrative Services and the Auditor of Public Accounts to establish and maintain an Investigation Petty Cash Fund. The funds used to initiate and maintain the Investigation Petty Cash Fund shall be drawn solely from the Nebraska State Patrol Cash Fund. The superintendent shall determine the amount of money to be held in the Investigation Petty Cash Fund, consistent with carrying out the duties and responsibilities of section 1 of this act, but not to exceed fifteen thousand dollars for the entire agency. This restriction shall not apply to General Funds that have been specifically appropriated to the Nebraska State Patrol Cash Fund for investigative purposes. When the Director of Administrative Services and the Auditor of Public Accounts have approved the establishment of such fund, a voucher shall be submitted to the Department of Administrative Services accompanied by such information as the department may require for the establishment of the fund. The Director of Administrative Services shall issue a warrant for the amount specified and deliver it to the Nebraska State Patrol. Such fund may be replenished as necessary. The Investigation Petty Cash Fund shall be audited by the Auditor of Public Accounts.

Sec. 3. For the purpose of establishing and maintaining legislative oversight and accountability, the Nebraska State Patrol shall maintain records of all expenditures, disbursements, and transfers of cash from the Nebraska State Patrol Cash Fund and the Investigation Petty Cash Fund.

By September 15 of each year, the patrol shall report to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst the unexpended balance existing on June 30 of the previous fiscal year relating to investigative expenses in (1) the Nebraska State Patrol Cash Fund, (2) the Investigation Petty Cash Fund, (3) any special

checking account or accounts used by the patrol in carrying out the duties specified in section 1 of this act, and (4) any funds existing on June 30 of the previous fiscal year in the possession of personnel of the patrol involved in investigations.

The Legislature may require a separate accounting of the investigation funds according to specific types of investigations.

Sec. 4. That section 29-3524, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-3524. Criminal justice agencies may assess reasonable fees, not to exceed actual costs, for search, retrieval, and copying of criminal justice records and may waive fees at their discretion. When fees for certified copies or other copies, printouts, or photographs of such records are specifically prescribed by law, such specific fees shall apply. All fees collected by the Nebraska State Patrol pursuant to this section shall be deposited in the Nebraska State Patrol Cash Fund.

Sec. 5. That section 60-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

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

(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, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, 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~~ Department of Motor Vehicles. The clerk may accept a certificate of inspection, approved by the ~~Department of Motor Vehieies~~ Superintendent of Law Enforcement and Public Safety, from an officer of a state police agency of another state. For each inspection, a fee of ten dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county clerk shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical, or if there is reason to believe further inspection is necessary, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. If there is cause to believe that odometer fraud exists, written notification shall be given to the 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. 6. That section 60-115, Reissue Revised Statutes of Nebraska, 1943, 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. ~~Fifty~~ Twenty 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 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. Forty-five ~~The remaining twenty-five~~ cents of the fee charged for the certificate of title shall be paid to the State Treasurer to be credited to the Title Security and Vehicle Theft Prevention Nebraska State Patrol Cash Fund, created in section 60-119. The remaining ten cents of the fee charged for the certificate of title shall be paid to the State Treasurer to be credited to the Nebraska Motor Vehicle Industry Licensing Fund for the purpose of conducting preliminary investigations of motor vehicle licensing violations relating to odometer and motor vehicle fraud. 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. 7. That section 60-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-117. (1) Whoever shall, except as otherwise provided for in this act sections 60-101 to 60-130, operate in this state a motor vehicle for which a certificate of title is required without having such certificate in accordance with the provisions of this act sections 60-101 to 60-130 or upon which the

certificate of title has been canceled; (2) whoever, except as otherwise provided for in this act sections 60-101 to 60-130, being a dealer or acting on behalf of a dealer shall acquire, purchase, hold, or display for sale a new motor vehicle without having obtained a manufacturer's or importer's certificate or a certificate of title therefor as provided for in this act sections 60-101 to 60-130; (3) whoever shall fail to surrender any certificate of title or any certificate of registration or license plates or tags upon cancellation of the same by the Department of Motor Vehicles and notice thereof as prescribed in this act sections 60-101 to 60-130; (4) whoever fails to surrender the certificate of title to the county clerk as provided in this act sections 60-101 to 60-130 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title; (5) whoever shall purport to sell or transfer a motor vehicle without delivering to the purchaser or transferee thereof a certificate of title or a manufacturer's or importer's certificate thereto duly assigned to such purchaser as provided in this act sections 60-101 to 60-130; (6) whoever knowingly alters or defaces a Nebraska certificate of title; or (7) whoever shall violate any of the other provisions of this act sections 60-101 to 60-130 or any lawful rules or regulations adopted and promulgated pursuant to the provisions of this act sections 60-101 to 60-130, shall be guilty of a Class III misdemeanor.

Sec. 8. That section 60-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-118. For purposes of sections ~~60-106~~ and 60-118 to ~~60-128~~ 60-127, 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;

(2) Patrol shall mean the Nebraska State Patrol; and

(3) Superintendent shall mean the Superintendent of Law Enforcement and Public Safety.

Sec. 9. That section 60-119, Revised Statutes Supplement, 1985, be amended to read as follows:

60-119. There is hereby created the Title

Security and Vehicle Theft Prevention Fund which shall be maintained by the State Treasurer as a cash fund and shall be administered by the Director of Motor Vehicles.

The fund Nebraska State Patrol Cash Fund shall be used to defray the expenses of training personnel, as determined by the Department of Motor Vehicles, in title document examination, vehicle identification, and fraud and theft investigation, and to defray department the patrol's expenses arising pursuant to sections 60-118 to 60-127 60-128 including those incurred for printing and distribution of forms, personal services, hearings, and similar administrative functions. Transfers from such fund may also be made to the General Fund at the direction of the legislature. Personnel may include, but shall not be limited to, county clerks, investigative personnel of the Nebraska Motor Vehicle Industry Licensing Board, and peace officers mentioned in section 39-6,192. Such training program shall be administered by the department patrol. The department's patrol's responsibility for providing for the training shall begin January 1, 1984 July 1, 1986. The Director of Motor Vehicles patrol may utilize the Nebraska Law Enforcement Training Center or the assistance of the Nebraska State Patrol to accomplish the training requirements of sections 60-118 to 60-128 60-127. The department superintendent may make expenditures from the fund necessary to implement such training.

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

Sec. 10. That section 60-121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-121. Except as provided in section 60-128, ~~no~~ No person shall conduct an inspection unless he or she is the holder of a current certificate of training issued by the Department of Motor Vehicles patrol. The certificate of training shall be issued upon completion of a course of instruction, approved by the department patrol, in the identification of stolen and altered vehicles. The director superintendent may require an individual to take such additional training as he or she deems necessary in order to maintain a current certificate of training.

Sec. 11. That section 60-122, Reissue Revised Statutes of Nebraska, 1943, 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 to assist in accomplishing inspections. Upon designation the person shall request approval for training from the director superintendent. Any person requesting approval for training shall submit a written application to the department patrol. Such application shall include the following information: (1) The name and address of the applicant; (2) the name and address of the agency employing the applicant and the name of the agency head; and (3) such biographical information as the director superintendent may require to facilitate the designation authorized by this section.

Sec. 12. That section 60-123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-123. (1) Upon receipt of an application for training pursuant to section 60-122, the department patrol may inquire into the qualifications of the applicant and may also request the Nebraska State Patrol to inquire into the background of the applicant.

(2) The department patrol shall not approve any applicant who has (a) knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers, or parts therefor, (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 (c) made a false material statement in his or her application.

Sec. 13. That section 60-124, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-124. The department patrol may, after notice and a hearing, revoke a certificate issued pursuant to sections 60-118 to ~~60-128~~ 60-127. The department patrol 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 patrol. The department patrol may revoke a certificate for any reason for which an applicant may be denied approval for training pursuant to section 60-123. The department patrol may revoke a certificate if the holder fails to keep a certificate current by taking any additional training the department patrol may require. The department patrol may revoke a certificate if the department patrol finds that the holder is incompetent. A rebuttable

presumption of incompetence shall arise from a finding by the department patrol 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 patrol's decision to revoke a certificate may appeal such decision to the appropriate district court in the manner provided in section 60-420.

Sec. 14. That section 60-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-125. No individual, other than a peace officer, shall attend training funded under sections 60-118 to ~~60-128~~ 60-127 unless such individual has been designated by a sheriff and approved by the department patrol.

Sec. 15. That section 60-127, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-127. The ~~director~~ superintendent shall, from time to time, provide each county clerk and sheriff with a list of persons holding current certificates of training.

Sec. 16.. That section 81-2007, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2007. The subordinate officers and employees of the Nebraska State Patrol, when on duty, shall be dressed in distinctive uniform and display a badge of office, except that the superintendent may authorize not more than thirty-five per cent of such officers to be on duty without wearing a distinct uniform. The superintendent shall issue to each member of the Nebraska State Patrol a serially numbered badge of office with a the seal of this state in the center thereof, the words Nebraska State Patrol encircling the seal, and below containing the designation of the position held by the subordinate officer, or employee to whom issued. Every such badge shall be serially numbered; PROVIDED, that not more than fifteen per cent of the members of the Nebraska State Patrol may be on duty without wearing a distinctive uniform.

Sec. 17. Sections 5 to 16 and 18 of this act shall become operative on July 1, 1986. The remaining sections shall become operative on their effective date.

Sec. 18. That original sections 60-106, 60-115, 60-117, 60-118, 60-121 to 60-125, 60-127, and 81-2007, Reissue Revised Statutes of Nebraska, 1943, and section 60-119, Revised Statutes Supplement, 1985, and

also section 60-128, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 19. That original section 29-3524, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 20. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.