

LEGISLATIVE BILL 1306

Approved by the Governor April 12, 1996

Introduced by Kristensen, 37

AN ACT relating to motor vehicles; to amend section 60-106, Revised Statutes Supplement, 1994, and section 60-6,298, Revised Statutes Supplement, 1995; to provide for salvage certificates of title as prescribed; to change provisions relating to vehicle size, weight, and load; to repeal the original sections; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-106, Revised Statutes Supplement, 1994, is amended to read:

60-106. (1)(a) The Department of Motor Vehicles in conjunction with the Department of Administrative Services and the counties shall develop an implementation plan to provide for adequate planning preceding a mandate for the implementation of the vehicle titling and registration component system of the statewide county automation project. The implementation plan shall include installation costs, training, and any other costs associated with the project.

(b) The Department of Motor Vehicles shall submit the implementation plan on or before December 1, 1993, to the Governor and the Clerk of the Legislature. Each member of the Legislature shall receive a copy of such report by making a request for it to the Director of Motor Vehicles or the Director of Administrative Services.

(c) Each county shall issue and file certificates of title using the vehicle titling and registration computer system prescribed by the Department of Motor Vehicles by January 1, 1996.

(2)(a) Application for a certificate of title shall be made upon a form prescribed by the Department of Motor Vehicles. All applications shall be accompanied by the fee prescribed in section 60-115.

(b) All applications for a certificate of title to a mobile home as defined in subdivision (2) of section 60-614 shall be accompanied by a mobile home transfer statement prescribed by the Tax Commissioner. The mobile home transfer statement shall be filed by the applicant with the county clerk of the county of application for title. The county clerk shall issue a certificate of title to a mobile home but shall not deliver the certificate of title unless the mobile home transfer statement accompanies the application for title, except that the failure to provide the mobile home transfer statement shall not prevent the notation of a lien on the face of the certificate of title to the mobile home pursuant to section 60-110 and delivery to the holder of the first lien. The mobile home transfer statement and the information contained in the statement shall be confidential and only available to tax officials.

(3)(a) If the motor vehicle has tax situs in Nebraska, the application shall be filed with the county clerk of the county in which the vehicle has tax situs as defined in section 77-1238.

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

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

(4) If a certificate of title has previously been issued for the motor vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned unless otherwise provided for in sections 60-102 to 60-117. If a certificate of title has not previously been issued for the motor vehicle in this state or if a certificate of title is unavailable pursuant to subsection (4) of section 52-1801, the application, unless otherwise provided for in sections 60-102 to 60-117, shall be accompanied by a manufacturer's or importer's certificate, as provided for in such sections, a duly certified copy thereof, a certificate of title, a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the state from which the motor vehicle was brought into this state does not have a

certificate of title law. For purposes of this subsection, certificate of title shall include a salvage certificate, a salvage certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. The county clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(5) 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.

(6) 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 (a) for titles to be held by husband and wife, applications may be accepted upon the signature of either one as a signature for himself or herself and as agent for his or her spouse and (b) for an applicant providing proof that he or she is a handicapped or disabled person as defined in section 18-1738, applications may be accepted upon the signature of the applicant's parent, legal guardian, foster parent, or agent.

(7) 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 thirty days after the delivery of such vehicle or trailer. A licensed dealer need not apply for certificates of title for motor vehicles, commercial trailers, semitrailers, or cabin trailers in stock or acquired for stock purposes, but upon transfer of such vehicle or trailer in stock or acquired for stock purposes, the licensed dealer shall give the transferee a reassignment of the certificate of title on such vehicle or trailer or an assignment of a manufacturer's or importer's certificate. If all reassignments on the certificate of title have been used, the licensed dealer shall obtain title in his or her name prior to any subsequent transfer.

(8) An application for a certificate of title shall include a statement that an identification inspection has been conducted on the vehicle unless (a) the title sought is a salvage certificate of title as defined in section 60-129 or a nontransferable certificate of title provided for in section 60-131, (b) the surrendered ownership document is a Nebraska certificate of title, a manufacturer's statement of origin, an importer's statement of origin, a United States Government Certificate of Release of a motor vehicle, or a nontransferable certificate of title issued under section 60-131, (c) the application for a certificate of title contains a statement that such vehicle is to be registered under section 60-305.09, (d) the vehicle is a cabin trailer, (e) the title sought is the first title for a motor vehicle sold directly by the manufacturer of the motor vehicle to a licensed dealer franchised by the manufacturer, or (f) the vehicle was sold at an auction authorized by the manufacturer and purchased by a licensed dealer franchised by the manufacturer of the motor vehicle. The Department of Motor Vehicles shall prescribe a form to be executed by a dealer and submitted with an application for a certificate of title for vehicles exempt from inspection pursuant to subdivision (8)(e) or (f) of this section, which form shall clearly identify the vehicle and state under penalty of law that the vehicle is exempt from inspection. The statement that an identification inspection has been conducted shall be furnished by the county sheriff of any county or by any other holder of a current certificate of training issued pursuant to section 60-121 and shall be in a format as determined by the department. The county clerk shall accept a certificate of inspection, approved by the Superintendent of Law Enforcement and Public Safety, from an officer of a state police agency of another state. For each inspection a fee of ten dollars shall be paid to the county treasurer. All such fees shall be credited to the county sheriff's vehicle inspection account within the county general fund. The identification inspection required by this subsection shall include examination and notation of the current odometer reading and a comparison of the vehicle identification number with the number listed on the ownership records, except that if a lien is registered against a vehicle and recorded on the vehicle's ownership records, the county clerk shall provide a copy of the ownership records for use in making such comparison. If such numbers are not identical or if there is reason to believe further inspection is necessary, the person performing the inspection shall make a further inspection of the vehicle which may include, but shall not be limited to, examination of other identifying numbers placed on the vehicle by the

manufacturer and an inquiry into the numbering system used by the state issuing such ownership records to determine ownership of a vehicle. The identification inspection shall also include a statement that the vehicle identification number has been checked for entry in the National Crime Information Center and the Nebraska Crime Information Service. If there is cause to believe that odometer fraud exists, written notification shall be given to the office of the Attorney General. If after such inspection the sheriff or his or her designee determines that the vehicle is not the vehicle described by the ownership records, no statement shall be issued. In the case of an assembled vehicle such inspection shall include, but not be limited to, an examination of the records showing the date of receipt and source of each major component part as defined in section 60-2601.

(9) If a county board consolidates services under the office of a designated county official other than the county clerk pursuant to section 23-186:

(a) Applications under subsections (2) and (3) of this section shall be submitted to the designated county official;

(b) The designated county official shall perform the duties imposed on the county clerk under subsections (2) and (5) of this section;

(c) The designated county official may accept certificates of inspection under the conditions described in subsection (8) of this section; and

(d) The designated county official shall act as office of record for title documents, applications, odometer statements, certificates of inspections, and lien and cancellation of lien notations.

Sec. 2. Section 60-6,298, Revised Statutes Supplement, 1995, is amended to read:

60-6,298. (1)(a) The Department of Roads or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special permit or a continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to seventy one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, up to ten percent greater than the maximum length specified by law, except that until June 1, 1997, for a truck-tractor semitrailer trailer combination utilized to transport sugar beets which may be up to twenty-five percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. Except for farm trucks as provided in subdivision (b) of this subsection, no permit shall authorize a weight greater than twenty thousand pounds on any single axle; or

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays.

(b) Any farm truck as defined in section 60-301 with not more than two axles may operate with a special permit for a distance of up to forty miles with an excess axle load of not more than five percent in excess of the maximum load permitted for a single axle by section 60-6,294 when such truck is being used for carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field, except that such truck shall not operate on the National System of Interstate and Defense Highways.

(c) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of

necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii), (1)(a)(iii), and (1)(b) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed ten dollars, except that:

(a) The fee for a continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivisions (1)(a)(ii) and (1)(b) of this section shall be twenty-five dollars for a thirty-day permit and fifty dollars for a sixty-day permit. Permits issued pursuant to such subdivisions shall be valid for thirty days or sixty days and shall be renewable for a total number of days not to exceed one hundred and twenty days per year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-305.09 or 60-331 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued except as provided in subdivision (1)(b) of this section.

Sec. 3. Original section 60-106, Revised Statutes Supplement, 1994,

and section 60-6,298, Revised Statutes Supplement, 1995, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.