

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1065

Introduced by Heidemann, 1.

Read first time January 21, 2010

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-2401,
2 60-2401.01, 60-2403, 60-2405, 60-2406, 60-2407, 60-2408,
3 60-2409, and 60-2411, Reissue Revised Statutes of
4 Nebraska, and sections 60-2404 and 60-2410, Revised
5 Statutes Cumulative Supplement, 2008; to change
6 provisions relating to towing; to harmonize provisions;
7 and to repeal the original sections.

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

1 Section 1. Section 60-2401, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-2401 In cities of the metropolitan or primary
4 class which have not adopted an ordinance conforming to section
5 60-2401.01, ~~meter~~ vehicles parked in a restricted parking lot
6 without the consent of the owner or tenant shall be subject to
7 being towed away, if the lot is properly posted.

8 Sec. 2. Section 60-2401.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 60-2401.01 Except in cities of the metropolitan or
11 primary class, any person parking a ~~meter~~ vehicle in a properly
12 posted, restricted parking lot without the consent of the owner
13 or tenant authorized to give permission shall be guilty of an
14 infraction and the vehicle shall be subject to being towed away at
15 the request of such lot owner or tenant. Any person found guilty
16 under this section shall be subject to the penalties provided in
17 section 29-436 for infractions. If the identity of the operator of
18 a ~~meter~~ vehicle in violation of this section cannot be determined,
19 the owner or person in whose name such vehicle is registered shall
20 be held prima facie responsible for such infraction. When any law
21 enforcement officer observes or is advised that a ~~meter~~ vehicle
22 may be in violation of this section, he or she shall make a
23 determination as to whether a violation has in fact occurred and,
24 if so, shall personally serve or attach to such ~~meter~~ vehicle a
25 citation pursuant to ~~the provisions of~~ section 29-424, directed

1 to the owner or operator of such vehicle, which shall set forth
2 the nature of the violation. Any person who refuses to sign the
3 citation or otherwise comply with the command of the citation shall
4 be punished as provided by section 29-426. As used in this section,
5 law enforcement officer shall include any authorized representative
6 of a law enforcement agency.

7 Sec. 3. Section 60-2403, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-2403 Anyone towing a ~~motor~~ vehicle away pursuant to
10 sections 60-2401 to 60-2411 shall notify the local law enforcement
11 agency within twenty-four hours of the license number of the ~~motor~~
12 vehicle. Anyone towing a ~~motor~~ vehicle away pursuant to sections
13 60-2401 to 60-2411 and holding the ~~motor~~ vehicle for more than
14 twenty-nine days shall, on the thirtieth day, renotify the local
15 law enforcement agency of the ~~motor~~ vehicle's license number for
16 the purpose of ascertaining whether the ~~motor~~ vehicle has been
17 reported stolen or missing. Such renotification shall be repeated
18 each thirty days while the ~~motor~~ vehicle is held by the tower or
19 until such time as the tower has placed a lien on the ~~motor~~ vehicle
20 as provided by section 60-2404.

21 Sec. 4. Section 60-2404, Revised Statutes Cumulative
22 Supplement, 2008, is amended to read:

23 60-2404 A ~~motor~~ vehicle towed away under sections 60-2401
24 to 60-2411, which is not claimed by the owner within ninety days
25 after towing, is subject to lien and disposition under Chapter 52,

1 article 6, by the person who towed the vehicle.

2 Sec. 5. Section 60-2405, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 60-2405 Any owner or tenant causing the towing away of
5 a ~~meter~~ vehicle that is not improperly parked on a restricted lot
6 shall cause the return of the ~~meter~~ vehicle to its owner or driver
7 at no charge to such owner or driver. The person causing the ~~meter~~
8 vehicle to be towed shall be liable for any reasonably foreseeable
9 damage incurred by the owner or driver of the ~~meter~~ vehicle due to
10 loss of transportation.

11 Sec. 6. Section 60-2406, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-2406 Anyone towing away a ~~meter~~ vehicle pursuant to
14 sections 60-2401 to 60-2411 shall be liable for any reasonably
15 foreseeable damages to the ~~meter~~ vehicle that occur during the
16 hookup, towing, or disengagement of the ~~meter~~ vehicle to or from
17 the towing vehicle and anyone storing such a towed ~~meter~~ vehicle
18 shall be liable for any reasonably foreseeable damage to the
19 ~~meter~~ vehicle and the personal contents therein during the storage
20 period.

21 Sec. 7. Section 60-2407, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-2407 Anyone attempting to tow away a ~~meter~~ vehicle
24 pursuant to sections 60-2401 to 60-2411 shall not be in full
25 possession of the ~~meter~~ vehicle to be towed until the ~~meter~~

1 vehicle has been fully and completely attached to his or her towing
2 vehicle. The tower shall, upon request of the owner or driver
3 of the ~~meter~~ vehicle to be towed, disengage the towing apparatus
4 at any time prior to taking full possession, as defined in this
5 section, of the ~~meter~~ vehicle.

6 Sec. 8. Section 60-2408, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 60-2408 The owner or driver of any ~~meter~~ vehicle towed
9 away pursuant to sections 60-2401 to 60-2411 shall, upon regaining
10 possession of the ~~meter~~ vehicle from the tower, be given a written
11 statement by the tower fully detailing: (1) The name and address of
12 the person or persons who caused the vehicle to be towed; (2) under
13 what statutory authority the vehicle was towed; and (3) his or her
14 rights under sections 60-2401 to 60-2411.

15 Sec. 9. Section 60-2409, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-2409 Anyone towing a ~~meter~~ vehicle pursuant to
18 sections 60-2401 to 60-2411 shall take reasonable steps to
19 ascertain that the person causing the ~~meter~~ vehicle to be towed
20 is the owner or tenant of the lot from which the ~~meter~~ vehicle is
21 to be towed.

22 Sec. 10. Section 60-2410, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 60-2410 (1) The owner or other person lawfully entitled
25 to the possession of any vehicle towed or stored shall be charged

1 with the reasonable cost of towing and storage fees. Any such
2 towing or storage fee shall be a lien upon the vehicle under
3 Chapter 52, article 6, and, except as provided in subsection (3)
4 of this section, shall be prior to all other claims. Any person
5 towing or storing a vehicle may retain possession of such vehicle
6 until such charges are paid or, after ninety days, may dispose of
7 such vehicle to satisfy the lien. Upon payment of such charges, the
8 person towing or storing the vehicle shall return possession of the
9 vehicle to the (a) owner, (b) lienholder, or (c) any other person
10 lawfully entitled to the possession of such vehicle making payment
11 of such charges. The lien provided for in this section shall not
12 apply to the contents of any vehicle.

13 (2) The person towing the ~~meter~~ vehicle shall, within
14 ~~thirty~~ five business days after towing, notify any lienholder
15 appearing on the certificate of title of the ~~meter~~ vehicle and the
16 owner of the ~~meter~~ vehicle of the towing of the ~~meter~~ vehicle. The
17 notice shall be sent by certified mail, return receipt requested,
18 to the last-known address of the lienholder and owner of the ~~meter~~
19 vehicle. The notice shall contain:

20 (a) The make, model, color, year, and vehicle
21 identification number of the ~~meter~~ vehicle;

22 (b) The name, address, and telephone number of the person
23 who towed the ~~meter~~ vehicle;

24 (c) The date of towing;

25 (d) The daily storage fee and the storage fee accrued as

1 of the date of the notification; and

2 (e) A statement that the ~~meter~~ vehicle is subject to lien
3 and disposition by sale or other manner ninety days after the date
4 of towing under Chapter 52, article 6.

5 (3) Failure to provide notice as prescribed in subsection
6 (2) of this section shall result in the lien of the person who
7 towed the ~~meter~~ vehicle being subordinate to the lien of the
8 lienholder appearing on the certificate of title and render void
9 any disposition of the ~~meter~~ vehicle by the person who towed the
10 ~~meter~~ vehicle.

11 Sec. 11. Section 60-2411, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-2411 Any owner or tenant causing the towing away of a
14 ~~meter~~ vehicle shall not solicit or accept therefor a commission,
15 gift, gratuity, or any form of compensation or wealth from the
16 person or business towing away the ~~meter~~ vehicle.

17 Sec. 12. Original sections 60-2401, 60-2401.01, 60-2403,
18 60-2405, 60-2406, 60-2407, 60-2408, 60-2409, and 60-2411, Reissue
19 Revised Statutes of Nebraska, and sections 60-2404 and 60-2410,
20 Revised Statutes Cumulative Supplement, 2008, are repealed.