

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 560

Introduced by Lathrop, 12.

Read first time January 21, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-2401,
2 60-2401.01, 60-2402, 60-2403, 60-2405, 60-2406, 60-2407,
3 60-2408, 60-2409, and 60-2411, Reissue Revised Statutes
4 of Nebraska, and sections 60-166, 60-2404, and 60-2410,
5 Revised Statutes Cumulative Supplement, 2008; to change
6 provisions relating to towing vehicles; to name an act;
7 to provide for maximum fees; and to repeal the original
8 sections.

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

1 Section 1. Section 60-166, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 60-166 (1) In the event of (a) the transfer of ownership
4 of a vehicle by operation of law as upon inheritance, devise, or
5 bequest, order in bankruptcy, insolvency, replevin, or execution
6 sale or as provided in the Towing Regulation Act and sections
7 30-24,125, 52-601.01 to 52-605, and 60-1901 to 60-1911, and ~~60-2401~~
8 ~~to 60-2411,~~ (b) the engine of a vehicle being replaced by another
9 engine, (c) a vehicle being sold to satisfy storage or repair
10 charges, or (d) repossession being had upon default in performance
11 of the terms of a chattel mortgage, trust receipt, conditional
12 sales contract, or other like agreement, the county clerk or
13 designated county official of any county or the department, if the
14 last certificate of title was issued by the department, upon the
15 surrender of the prior certificate of title or the manufacturer's
16 or importer's certificate, or when that is not possible, upon
17 presentation of satisfactory proof of ownership and right of
18 possession to such vehicle, and upon payment of the appropriate fee
19 and the presentation of an application for certificate of title,
20 may issue to the applicant a certificate of title thereto. If the
21 prior certificate of title issued for such vehicle provided for
22 joint ownership with right of survivorship, a new certificate of
23 title shall be issued to a subsequent purchaser upon the assignment
24 of the prior certificate of title by the surviving owner and
25 presentation of satisfactory proof of death of the deceased owner.

1 Only an affidavit by the person or agent of the person to whom
2 possession of such vehicle has so passed, setting forth facts
3 entitling him or her to such possession and ownership, together
4 with a copy of the journal entry, court order, or instrument
5 upon which such claim of possession and ownership is founded,
6 shall be considered satisfactory proof of ownership and right of
7 possession, except that if the applicant cannot produce such proof
8 of ownership, he or she may submit to the department such evidence
9 as he or she may have, and the department may thereupon, if it
10 finds the evidence sufficient, issue the certificate of title or
11 authorize the county clerk or designated county official to issue a
12 certificate of title, as the case may be.

13 (2) If from the records in the office of the county clerk
14 or designated county official or the department there appear to be
15 any liens on such vehicle, such certificate of title shall contain
16 a statement of such liens unless the application is accompanied by
17 proper evidence of their satisfaction or extinction.

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

20 60-2401 (1) Sections 60-2401 to 60-2411 and section 14 of
21 this act shall be known and may be cited as the Towing Regulation
22 Act.

23 (2) In cities of the metropolitan or primary class which
24 have not adopted an ordinance conforming to section 60-2401.01,
25 motor vehicles parked in a restricted parking lot or on private

1 property without the consent of the owner or tenant shall be
2 subject to being towed away as provided in the Towing Regulation
3 Act, if the lot or property is properly posted.

4 Sec. 3. Section 60-2401.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 60-2401.01 (1) Except in cities of the metropolitan or
7 primary class as provided in section 60-2401, any person parking
8 a motor vehicle in a properly posted, restricted parking lot or
9 on properly posted private property without the consent of the
10 owner or tenant authorized to give permission shall be guilty of
11 an infraction and the vehicle shall be subject to being towed away
12 at the request of such lot or property owner or tenant. Any person
13 found guilty under this section shall be subject to the penalties
14 provided in section 29-436 for infractions.

15 (2) If the identity of the operator of a motor vehicle in
16 violation of this section cannot be determined, the owner or person
17 in whose name such vehicle is registered shall be held prima facie
18 responsible for such infraction.

19 (3) When any law enforcement officer observes or is
20 advised that a motor vehicle may be in violation of this section,
21 he or she shall make a determination as to whether a violation
22 has in fact occurred and if so shall personally serve or attach
23 to such motor vehicle a citation pursuant to ~~the provisions of~~
24 section 29-424, directed to the owner or operator of such vehicle,
25 which shall set forth the nature of the violation. Any person who

1 refuses to sign the citation or otherwise comply with the command
2 of the citation shall be punished as provided by section 29-426.
3 As used in this section, law enforcement officer shall include any
4 authorized representative of a law enforcement agency.

5 Sec. 4. Section 60-2402, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 60-2402 Signs designating a restricted parking lot shall
8 be readily visible and shall state the purpose or purposes for
9 parking on the restricted parking lot, state the hours for
10 restricted parking, and state who to contact for information
11 regarding a towed vehicle. Signs posted on private property shall
12 state who to contact for information regarding a towed vehicle.

13 Sec. 5. Section 60-2403, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-2403 Anyone towing a motor vehicle away pursuant to
16 ~~sections 60-2401 to 60-2411~~ the Towing Regulation Act shall notify
17 the local law enforcement agency within twenty-four hours of the
18 license number of the motor vehicle. Anyone towing a motor vehicle
19 away pursuant to ~~sections 60-2401 to 60-2411~~ the act and holding
20 the motor vehicle for more than twenty-nine days shall, on the
21 thirtieth day, renotify the local law enforcement agency of the
22 motor vehicle's license number for the purpose of ascertaining
23 whether the motor vehicle has been reported stolen or missing. Such
24 renotification shall be repeated each thirty days while the motor
25 vehicle is held by the tower or until such time as the tower has

1 placed a lien on the motor vehicle as provided by section 60-2404.

2 Sec. 6. Section 60-2404, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 60-2404 A motor vehicle towed away under ~~sections 60-2401~~
5 ~~to 60-2411,~~ the Towing Regulation Act, which is not claimed by
6 the owner within ninety days after towing, is subject to lien and
7 disposition under Chapter 52, article 6, by the person who towed
8 the vehicle if such person has fully complied with the act.

9 Sec. 7. Section 60-2405, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 60-2405 Any ~~owner or tenant~~ person causing the towing
12 away of a motor vehicle that is not improperly parked on a
13 restricted lot or private property shall cause the return of the
14 motor vehicle to its owner or driver at no charge to such owner or
15 driver. The person causing the motor vehicle to be towed shall be
16 liable for any reasonably foreseeable damage incurred by the owner
17 or driver of the motor vehicle due to loss of transportation.

18 Sec. 8. Section 60-2406, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 60-2406 Anyone towing away a motor vehicle pursuant to
21 ~~sections 60-2401 to 60-2411~~ the Towing Regulation Act shall be
22 liable for any reasonably foreseeable damages to the motor vehicle
23 that occur during the hookup, towing, or disengagement of the motor
24 vehicle to or from the towing vehicle, and anyone storing such a
25 towed motor vehicle shall be liable for any reasonably foreseeable

1 damage to the motor vehicle and the personal contents therein
2 during the storage period.

3 Sec. 9. Section 60-2407, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-2407 Anyone attempting to tow away a motor vehicle
6 pursuant to ~~sections 60-2401 to 60-2411~~ the Towing Regulation Act
7 shall not be in full possession of the motor vehicle to be towed
8 until the motor vehicle has been fully and completely attached to
9 his or her towing vehicle. The tower shall, upon request of the
10 owner or driver of the motor vehicle to be towed, disengage the
11 towing apparatus at any time prior to taking full possession, as
12 defined in this section, of the motor vehicle.

13 Sec. 10. Section 60-2408, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-2408 The owner or driver of any motor vehicle towed
16 away pursuant to ~~sections 60-2401 to 60-2411~~ the Towing Regulation
17 Act shall, upon regaining possession of the motor vehicle from the
18 tower, be given a written statement by the tower fully detailing:
19 (1) The name and address of the person or persons who caused the
20 vehicle to be towed; (2) under what statutory authority the vehicle
21 was towed; and (3) his or her rights under ~~sections 60-2401 to~~
22 ~~60-2411.~~ the act.

23 Sec. 11. Section 60-2409, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 60-2409 ~~Anyone~~ Any person towing a motor vehicle pursuant

1 to ~~sections 60-2401 to 60-2411~~ the Towing Regulation Act shall
2 take reasonable steps to ascertain that the person causing the
3 motor vehicle to be towed is the owner or tenant of the lot or
4 property from which the motor vehicle is to be towed. Any person
5 towing a motor vehicle pursuant to the act shall be responsible for
6 ensuring that the lot or property from which the vehicle is towed
7 is properly posted and for ensuring the written statement required
8 under section 60-2408 is provided to the owner or driver.

9 Sec. 12. Section 60-2410, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 60-2410 (1) The owner or other person lawfully entitled
12 to the possession of any vehicle towed or stored shall be charged
13 with the reasonable cost of towing and storage fees. The maximum
14 fee for towing a vehicle shall be one hundred dollars for towing
15 and twenty-five dollars for administrative expenses. The maximum
16 fee for storage of a vehicle shall be fifteen dollars per day per
17 motor vehicle. Any such towing or storage fee shall be a lien upon
18 the vehicle under Chapter 52, article 6, and, except as provided in
19 subsection (3) of this section, shall be prior to all other claims.
20 Any person towing or storing a vehicle may retain possession of
21 such vehicle until such charges are paid or, after ninety days, may
22 dispose of such vehicle to satisfy the lien. The lien provided for
23 in this section shall not apply to the contents of any vehicle.

24 (2) The person towing the motor vehicle shall, within
25 thirty days after towing, notify any lienholder appearing on the

1 certificate of title of the motor vehicle and the owner of the
2 motor vehicle of the towing of the motor vehicle. The notice
3 shall be sent by certified mail, return receipt requested, to
4 the last-known address of the lienholder and owner of the motor
5 vehicle. The notice shall contain:

6 (a) The make, model, color, year, and vehicle
7 identification number of the motor vehicle;

8 (b) The name, address, and telephone number of the person
9 who towed the motor vehicle;

10 (c) The date of towing;

11 (d) The daily storage fee and the storage fee accrued as
12 of the date of the notification; and

13 (e) A statement that the motor vehicle is subject to lien
14 and disposition by sale or other manner ninety days after the date
15 of towing under Chapter 52, article 6.

16 (3) Failure to provide notice as prescribed in subsection
17 (2) of this section shall result in the lien of the person who
18 towed the motor vehicle being subordinate to the lien of the
19 lienholder appearing on the certificate of title and render void
20 any disposition of the motor vehicle by the person who towed the
21 motor vehicle.

22 Sec. 13. Section 60-2411, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 60-2411 Any owner or tenant causing the towing away of
25 a motor vehicle under the Towing Regulation Act shall not solicit

1 or accept therefor a commission, gift, gratuity, or any form of
2 compensation or wealth from the person or business towing away the
3 motor vehicle.

4 Sec. 14. The Towing Regulation Act does not apply to the
5 towing of a motor vehicle (1) as the result of an order issued by
6 a court of competent jurisdiction, (2) by any government agency if
7 the parking or storage of the vehicle constituted a nuisance and
8 the lawful procedures respecting the towing of such vehicle as a
9 nuisance have been followed, or (3) in response to the order of any
10 law enforcement officer (a) because the vehicle came to a resting
11 place on private property following a traffic accident or (b) if
12 the vehicle is being seized as evidence or incident to the arrest
13 of the operator or an occupant of the vehicle.

14 Sec. 15. Original sections 60-2401, 60-2401.01, 60-2402,
15 60-2403, 60-2405, 60-2406, 60-2407, 60-2408, 60-2409, and 60-2411,
16 Reissue Revised Statutes of Nebraska, and sections 60-166, 60-2404,
17 and 60-2410, Revised Statutes Cumulative Supplement, 2008, are
18 repealed.