

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1136

Introduced by Clements, 2.

Read first time January 18, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-1905,
2 60-1910, and 60-1911, Reissue Revised Statutes of Nebraska, section
3 60-1901, Revised Statutes Cumulative Supplement, 2016, and sections
4 60-149 and 60-166, Revised Statutes Supplement, 2017; to redefine
5 abandoned vehicle to include a motor vehicle donated or sold to a
6 multistate auction dealer; to provide for custody and disposition of
7 such vehicles and proceeds of sales of such vehicles; to provide
8 duties for multistate online dealers; to harmonize provisions; and
9 to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-149, Revised Statutes Supplement, 2017, is
2 amended to read:

3 60-149 (1)(a) If a certificate of title has previously been issued
4 for a vehicle in this state, the application for a new certificate of
5 title shall be accompanied by the certificate of title duly assigned
6 except as otherwise provided in the Motor Vehicle Certificate of Title
7 Act.

8 (b) Except for manufactured homes or mobile homes as provided in
9 subsection (2) of this section, if a certificate of title has not
10 previously been issued for the vehicle in this state or if a certificate
11 of title is unavailable pursuant to subsection (4) of section 52-1801,
12 the application shall be accompanied by:

13 (i) A manufacturer's or importer's certificate except as otherwise
14 provided in subdivision (vii) of this subdivision;

15 (ii) A duly certified copy of the manufacturer's or importer's
16 certificate;

17 (iii) An affidavit by the owner affirming ownership in the case of
18 an all-terrain vehicle, a utility-type vehicle, or a minibike;

19 (iv) A certificate of title from another state;

20 (v) A court order issued by a court of record, a manufacturer's
21 certificate of origin, or an assigned registration certificate, if the
22 law of the state from which the vehicle was brought into this state does
23 not have a certificate of title law;

24 (vi) Documentation prescribed in section 60-142.01, 60-142.02,
25 60-142.04, 60-142.05, or 60-142.09 or documentation of compliance with
26 section 76-1607; or

27 (vii) A manufacturer's or importer's certificate and an affidavit by
28 the owner affirming ownership in the case of a minitruck.

29 (c) If the application for a certificate of title in this state is
30 accompanied by a valid certificate of title issued by another state which
31 meets that state's requirements for transfer of ownership, then the

1 application may be accepted by this state.

2 (d) If a certificate of title has not previously been issued for the
3 vehicle in this state and the applicant is unable to provide such
4 documentation, the applicant may apply for a bonded certificate of title
5 as prescribed in section 60-167.

6 (2)(a) If the application for a certificate of title for a
7 manufactured home or a mobile home is being made in accordance with
8 subdivision (4)(b) of section 60-137 or if the certificate of title for a
9 manufactured home or a mobile home is unavailable pursuant to section
10 52-1801, the application shall be accompanied by proof of ownership in
11 the form of:

- 12 (i) A duly assigned manufacturer's or importer's certificate;
- 13 (ii) A certificate of title from another state;
- 14 (iii) A court order issued by a court of record;
- 15 (iv) Evidence of ownership as provided for in section 30-24,125,
16 52-601.01 to 52-605, 60-1901 to 60-1911 and section 4 of this act, or
17 60-2401 to 60-2411, or documentation of compliance with section 76-1607;
18 or

19 (v) Assessment records for the manufactured home or mobile home from
20 the county assessor and an affidavit by the owner affirming ownership.

21 (b) If the applicant cannot produce proof of ownership described in
22 subdivision (a) of this subsection, he or she may submit to the
23 department such evidence as he or she may have, and the department may
24 thereupon, if it finds the evidence sufficient, issue the certificate of
25 title or authorize the county treasurer to issue a certificate of title,
26 as the case may be.

27 (3) For purposes of this section, certificate of title includes a
28 salvage certificate, a salvage branded certificate of title, or any other
29 document of ownership issued by another state or jurisdiction for a
30 salvage vehicle. Only a salvage branded certificate of title shall be
31 issued to any vehicle conveyed upon a salvage certificate, a salvage

1 branded certificate of title, or any other document of ownership issued
2 by another state or jurisdiction for a salvage vehicle.

3 (4) The county treasurer shall retain the evidence of title
4 presented by the applicant and on which the certificate of title is
5 issued.

6 Sec. 2. Section 60-166, Revised Statutes Supplement, 2017, is
7 amended to read:

8 60-166 (1) In the event of (a) the transfer of ownership of a
9 vehicle by operation of law as upon inheritance, devise, or bequest,
10 order in bankruptcy, insolvency, replevin, or execution sale or as
11 provided in sections 30-24,125, 52-601.01 to 52-605, 60-1901 to 60-1911
12 and section 4 of this act, and 60-2401 to 60-2411, (b) the engine of a
13 vehicle being replaced by another engine, (c) a vehicle being sold to
14 satisfy storage or repair charges or under section 76-1607, or (d)
15 repossession being had upon default in performance of the terms of a
16 chattel mortgage, trust receipt, conditional sales contract, or other
17 like agreement, and upon acceptance of an electronic certificate of title
18 record after repossession, in addition to the title requirements in this
19 section, the county treasurer of any county or the department, upon the
20 surrender of the prior certificate of title or the manufacturer's or
21 importer's certificate, or when that is not possible, upon presentation
22 of satisfactory proof of ownership and right of possession to such
23 vehicle, and upon payment of the appropriate fee and the presentation of
24 an application for certificate of title, may issue to the applicant a
25 certificate of title thereto. If the prior certificate of title issued
26 for such vehicle provided for joint ownership with right of survivorship,
27 a new certificate of title shall be issued to a subsequent purchaser upon
28 the assignment of the prior certificate of title by the surviving owner
29 and presentation of satisfactory proof of death of the deceased owner.
30 Only an affidavit by the person or agent of the person to whom possession
31 of such vehicle has so passed, setting forth facts entitling him or her

1 to such possession and ownership, together with a copy of the journal
2 entry, court order, or instrument upon which such claim of possession and
3 ownership is founded, shall be considered satisfactory proof of ownership
4 and right of possession, except that if the applicant cannot produce such
5 proof of ownership, he or she may submit to the department such evidence
6 as he or she may have, and the department may thereupon, if it finds the
7 evidence sufficient, issue the certificate of title or authorize any
8 county treasurer to issue a certificate of title, as the case may be.

9 (2) If from the records of the county treasurer or the department
10 there appear to be any liens on such vehicle, such certificate of title
11 shall comply with section 60-164 or 60-165 regarding such liens unless
12 the application is accompanied by proper evidence of their satisfaction
13 or extinction.

14 Sec. 3. Section 60-1901, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 60-1901 (1) A motor vehicle is an abandoned vehicle:

17 (a) If left unattended, with no license plates or valid In Transit
18 stickers issued pursuant to the Motor Vehicle Registration Act affixed
19 thereto, for more than six hours on any public property;

20 (b) If left unattended for more than twenty-four hours on any public
21 property, except a portion thereof on which parking is legally permitted;

22 (c) If left unattended for more than forty-eight hours, after the
23 parking of such vehicle has become illegal, if left on a portion of any
24 public property on which parking is legally permitted;

25 (d) If left unattended for more than seven days on private property
26 if left initially without permission of the owner, or after permission of
27 the owner is terminated;

28 (e) If left for more than thirty days in the custody of a law
29 enforcement agency after the agency has sent a letter to the last-
30 registered owner under section 60-1903.01; ~~or~~

31 (f) If removed from private property by a municipality pursuant to a

1 municipal ordinance; or -

2 (g) If donated or sold to a multistate auction dealer and left in
3 the dealer's custody for more than forty-five days.

4 (2) An all-terrain vehicle, a utility-type vehicle, or a minibike is
5 an abandoned vehicle:

6 (a) If left unattended for more than twenty-four hours on any public
7 property, except a portion thereof on which parking is legally permitted;

8 (b) If left unattended for more than forty-eight hours, after the
9 parking of such vehicle has become illegal, if left on a portion of any
10 public property on which parking is legally permitted;

11 (c) If left unattended for more than seven days on private property
12 if left initially without permission of the owner, or after permission of
13 the owner is terminated;

14 (d) If left for more than thirty days in the custody of a law
15 enforcement agency after the agency has sent a letter to the last-
16 registered owner under section 60-1903.01; or

17 (e) If removed from private property by a municipality pursuant to a
18 municipal ordinance.

19 (3) A mobile home is an abandoned vehicle if left in place on
20 private property for more than thirty days after a local governmental
21 unit, pursuant to an ordinance or resolution, has sent a certified letter
22 to each of the last-registered owners and posted a notice on the mobile
23 home, stating that the mobile home is subject to sale or auction or
24 vesting of title as set forth in section 60-1903.

25 (4) For purposes of this section:

26 (a) Mobile home means a movable or portable dwelling constructed to
27 be towed on its own chassis, connected to utilities, and designed with or
28 without a permanent foundation for year-round living. It may consist of
29 one or more units that can be telescoped when towed and expanded later
30 for additional capacity, or of two or more units, separately towable but
31 designed to be joined into one integral unit, and shall include a

1 manufactured home as defined in section 71-4603. Mobile home does not
2 include a mobile home or manufactured home for which an affidavit of
3 affixture has been recorded pursuant to section 60-169;

4 (b) Public property means any public right-of-way, street, highway,
5 alley, or park or other state, county, or municipally owned property; and

6 (c) Private property means any privately owned property which is not
7 included within the definition of public property.

8 (5) No motor vehicle subject to forfeiture under section 28-431
9 shall be an abandoned vehicle under this section.

10 Sec. 4. (1) The multistate auction dealer having custody of an
11 abandoned vehicle pursuant to subdivision (1)(g) of section 60-1901 shall
12 make an inquiry concerning the last-registered owner of such vehicle as
13 follows:

14 (a) Abandoned vehicle with license plates affixed, to the
15 jurisdiction which issued such license plates; or

16 (b) Abandoned vehicle with valid In Transit stickers issued pursuant
17 to section 60-376 affixed but with no license plates affixed, to the
18 Department of Motor Vehicles.

19 (2) For an abandoned vehicle with no license plates affixed and no
20 valid In Transit stickers issued pursuant to section 60-376 affixed, no
21 inquiry under subdivision (1) of this section is required.

22 (3) The multistate auction dealer shall notify the last-registered
23 owner, if any, that the vehicle in question has been determined to be an
24 abandoned vehicle and that, if unclaimed, title will vest in the
25 multistate auction dealer thirty days after the date such notice was
26 mailed. If the jurisdiction or department described in subdivision (1)(a)
27 or (b) of this section notifies the multistate auction dealer that a lien
28 or mortgage exists, such notice shall also be sent to the lienholder or
29 mortgagee. Any person claiming such vehicle shall be required to pay the
30 cost of removal and storage of such vehicle.

31 (4) Title to an abandoned vehicle, if unclaimed, shall vest in the

1 multistate auction dealer (a) thirty days after the date the notice is
2 mailed if the multistate auction dealer will retain the vehicle or (b) if
3 the last-registered owner cannot be ascertained, thirty days after the
4 dealer has published in a newspaper of general circulation in the
5 jurisdiction an announcement that the dealer intends to retain the
6 abandoned vehicle for its use and that title will vest in the dealer
7 thirty days after the publication.

8 (5) After title to the abandoned vehicle vests pursuant to
9 subsection (4) of this section, the multistate auction dealer may retain
10 for use, sell, or auction the abandoned vehicle.

11 (6) Any fee for any certificate of title issued to a multistate
12 auction dealer pursuant to this section shall not exceed forty dollars.

13 Sec. 5. Section 60-1905, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 60-1905 (1) Any proceeds from the sale of an abandoned vehicle less
16 any expenses, including towing and storage charges, incurred by the local
17 authority or state agency shall be held by the local authority or state
18 agency without interest, for the benefit of the owner or lienholders of
19 such vehicle for a period of two years. If not claimed within such two-
20 year period, the proceeds shall be paid into the general fund of the
21 local authority entitled to custody under section 60-1904 or the state
22 General Fund if a state agency is entitled to custody under section
23 60-1904.

24 (2) Any proceeds from the sale of a motor vehicle that is an
25 abandoned vehicle pursuant to subdivision (1)(g) of section 60-1901 less
26 any expenses, including towing and storage charges, incurred by the
27 multistate auction dealer shall be held by the multistate action dealer
28 without interest, for the benefit of the owner or lienholders of such
29 vehicle for a period of two years. If not claimed within such two-year
30 period, the proceeds shall belong to the multistate auction dealer.

31 Sec. 6. Section 60-1910, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 60-1910 The Director of Motor Vehicles shall adopt and promulgate
3 rules and regulations providing for such forms and procedures as are
4 necessary or desirable to effectuate the provisions of sections 60-1901
5 to 60-1911 and section 4 of this act. Such rules and regulations may
6 include procedures for the removal and disposition of vehicle
7 identification numbers of abandoned vehicles, forms for local records for
8 abandoned vehicles, and inquiries relating to ownership of such vehicles.

9 Sec. 7. Section 60-1911, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 60-1911 Except as provided in section 60-1908, any person violating
12 the provisions of sections 60-1901 to 60-1911 and section 4 of this act
13 shall be guilty of a Class II misdemeanor.

14 Sec. 8. Original sections 60-1905, 60-1910, and 60-1911, Reissue
15 Revised Statutes of Nebraska, and section 60-1901, Revised Statutes
16 Cumulative Supplement, 2016, and sections 60-149 and 60-166, Revised
17 Statutes Supplement, 2017, are repealed.