

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 498

FINAL READING

Introduced by Hadley, 37.

Read first time January 21, 2015

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to all-terrain vehicles and utility-type
2 vehicles; to amend section 77-2701.24, Reissue Revised Statutes of
3 Nebraska, and sections 60-123, 60-153, 60-301, 60-305, 60-339,
4 60-358.01, 60-6,355, and 77-2703, Revised Statutes Cumulative
5 Supplement, 2014; to require registration of all-terrain vehicles
6 and utility-type vehicles under the Motor Vehicle Registration Act;
7 to redefine terms; to change sales and use tax provisions; to
8 harmonize provisions; to provide an operative date; and to repeal
9 the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-123, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 60-123 Motor vehicle means any vehicle propelled by any power other
4 than muscular power. Motor vehicle does not include (1) mopeds, (2) farm
5 tractors, (3) self-propelled equipment designed and used exclusively to
6 carry and apply fertilizer, chemicals, or related products to
7 agricultural soil and crops, agricultural floater-spreader implements,
8 and other implements of husbandry designed for and used primarily for
9 tilling the soil and harvesting crops or feeding livestock, (4) power
10 unit hay grinders or a combination which includes a power unit and a hay
11 grinder when operated without cargo, (5) vehicles which run only on rails
12 or tracks, (6) off-road designed vehicles not authorized by law for use
13 on a highway, including, but not limited to, golf car vehicles, go-carts,
14 riding lawnmowers, garden tractors, all-terrain vehicles and ~~7~~ utility-
15 type vehicles registered or exempt from registration under sections 7 to
16 16 of this act, snowmobiles registered or exempt from registration under
17 sections 60-3,207 to 60-3,219, and minibikes, (7) road and general-
18 purpose construction and maintenance machinery not designed or used
19 primarily for the transportation of persons or property, including, but
20 not limited to, ditchdigging apparatus, asphalt spreaders, bucket
21 loaders, leveling graders, earthmoving carryalls, power shovels,
22 earthmoving equipment, and crawler tractors, (8) self-propelled chairs
23 used by persons who are disabled, and (9) electric personal assistive
24 mobility devices.

25 Sec. 2. Section 60-153, Revised Statutes Cumulative Supplement,
26 2014, is amended to read:

27 60-153 (1) A certificate of title shall be printed upon safety
28 security paper to be selected by the department. The certificate of
29 title, manufacturer's statement of origin, and assignment of
30 manufacturer's certificate shall be upon forms prescribed by the
31 department and may include, but shall not be limited to, county of

1 issuance, date of issuance, certificate of title number, previous
2 certificate of title number, vehicle identification number, year, make,
3 model, and body type of the vehicle, name and residential and mailing
4 address of the owner, acquisition date, issuing county treasurer's
5 signature and official seal, and sufficient space for the notation and
6 release of liens, mortgages, or encumbrances, if any. A certificate of
7 title issued on or after September 1, 2007, shall include the words "void
8 if altered". A certificate of title that is altered shall be deemed a
9 mutilated certificate of title. The certificate of title of a ~~an all-~~
10 ~~terrain vehicle, utility-type vehicle, or~~ minibike shall include the
11 words "not to be registered for road use".

12 (2) An assignment of certificate of title shall appear on each
13 certificate of title and shall include, but not be limited to, a
14 statement that the owner of the vehicle assigns all his or her right,
15 title, and interest in the vehicle, the name and address of the assignee,
16 the name and address of the lienholder or secured party, if any, and the
17 signature of the owner or the owner's parent, legal guardian, foster
18 parent, or agent in the case of an owner who is a handicapped or disabled
19 person as defined in section 60-331.02.

20 (3) A reassignment by a dealer shall appear on each certificate of
21 title and shall include, but not be limited to, a statement that the
22 dealer assigns all his or her right, title, and interest in the vehicle,
23 the name and address of the assignee, the name and address of the
24 lienholder or secured party, if any, and the signature of the dealer or
25 designated representative. Reassignments shall be printed on the reverse
26 side of each certificate of title as many times as convenient.

27 (4) The department may prescribe a secure power-of-attorney form and
28 may contract with one or more persons to develop, provide, sell, and
29 distribute secure power-of-attorney forms in the manner authorized or
30 required by the federal Truth in Mileage Act of 1986 and any other
31 federal law or regulation. Any secure power-of-attorney form authorized

1 pursuant to a contract shall conform to the terms of the contract and be
2 in strict compliance with the requirements of the department.

3 Sec. 3. Section 60-301, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 60-301 Sections 60-301 to 60-3,222 and sections 7 to 16 of this act
6 shall be known and may be cited as the Motor Vehicle Registration Act.

7 Sec. 4. Section 60-305, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 60-305 All-terrain vehicle means any motorized off-highway vehicle
10 which (1) is fifty inches or less in width, (2) has a dry weight of
11 twelve hundred pounds or less, (3) travels on three or more nonhighway
12 tires, and (4) is designed for operator use only with no passengers or is
13 specifically designed by the original manufacturer for the operator and
14 one passenger. ~~All terrain vehicles which have been modified or~~
15 ~~retrofitted with after-market parts to include additional equipment not~~
16 ~~required by sections 60-6,357 and 60-6,358 shall not be registered under~~
17 ~~the Motor Vehicle Registration Act, nor shall such modified or~~
18 ~~retrofitted vehicles be eligible for registration in any other category~~
19 ~~of vehicle defined in the act.~~

20 Sec. 5. Section 60-339, Revised Statutes Cumulative Supplement,
21 2014, is amended to read:

22 60-339 Motor vehicle means any vehicle propelled by any power other
23 than muscular power. Motor vehicle does not include (1) mopeds, (2) farm
24 tractors, (3) self-propelled equipment designed and used exclusively to
25 carry and apply fertilizer, chemicals, or related products to
26 agricultural soil and crops, agricultural floater-spreader implements,
27 and other implements of husbandry designed for and used primarily for
28 tilling the soil and harvesting crops or feeding livestock, (4) power
29 unit hay grinders or a combination which includes a power unit and a hay
30 grinder when operated without cargo, (5) vehicles which run only on rails
31 or tracks, (6) off-road designed vehicles not authorized by law for use

1 on a highway, including, but not limited to, golf car vehicles, go-carts,
2 riding lawnmowers, garden tractors, all-terrain vehicles and ~~7~~ utility-
3 type vehicles registered or exempt from registration under sections 7 to
4 16 of this act, snowmobiles registered or exempt from registration under
5 sections 60-3,207 to 60-3,219, and minibikes, (7) road and general-
6 purpose construction and maintenance machinery not designed or used
7 primarily for the transportation of persons or property, including, but
8 not limited to, ditchdigging apparatus, asphalt spreaders, bucket
9 loaders, leveling graders, earthmoving carryalls, power shovels,
10 earthmoving equipment, and crawler tractors, (8) self-propelled chairs
11 used by persons who are disabled, and (9) electric personal assistive
12 mobility devices.

13 Sec. 6. Section 60-358.01, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 60-358.01 (1) Utility-type vehicle means any motorized off-highway
16 vehicle which (a) is seventy-four inches in width or less, (b) is not
17 more than one hundred eighty inches, including the bumper, in length, (c)
18 has a dry weight of two thousand pounds or less, and (d) travels on four
19 or more nonhighway tires. ~~Utility-type vehicles which have been modified~~
20 ~~or retrofitted with after market parts to include additional equipment~~
21 ~~not required by sections 60-6,357 and 60-6,358 shall not be registered~~
22 ~~under the Motor Vehicle Registration Act, nor shall such modified or~~
23 ~~retrofitted vehicles be eligible for registration in any other category~~
24 ~~of vehicle defined in the act.~~

25 (2) Utility-type vehicle does not include all-terrain vehicles, golf
26 car vehicles, or low-speed vehicles.

27 Sec. 7. For purposes of sections 7 to 16 of this act:

28 (1) Dealer means any person engaged in the business of selling all-
29 terrain vehicles or utility-type vehicles at wholesale or retail;

30 (2) Manufacturer means a person, partnership, limited liability
31 company, or corporation engaged in the business of manufacturing all-

1 terrain vehicles or utility-type vehicles; and

2 (3) Operate means to ride in or on and control the operation of an
3 all-terrain vehicle or utility-type vehicle.

4 Sec. 8. (1) Beginning on the operative date of this act, except as
5 otherwise provided in sections 7 to 16 of this act, no person shall
6 operate any all-terrain vehicle or utility-type vehicle within the State
7 of Nebraska unless such all-terrain vehicle or utility-type vehicle has
8 been registered in accordance with sections 7 to 16 of this act.

9 (2) An all-terrain vehicle or utility-type vehicle which has been
10 modified or retrofitted with after-market parts to include additional
11 equipment not required by sections 60-6,357 and 60-6,358 shall be
12 registered as an all-terrain vehicle or utility-type vehicle in
13 accordance with sections 7 to 16 of this act and shall not be eligible
14 for registration in any other category of vehicle defined in the Motor
15 Vehicle Registration Act.

16 Sec. 9. Application for registration shall be made to the county
17 treasurer in such form as the director prescribes and shall state the
18 name and address of the applicant and a description of the all-terrain
19 vehicle or utility-type vehicle, including color, manufacturer, and
20 identification number. Application forms shall be made available through
21 the county treasurer's office of each county in this state. Upon receipt
22 of the application and the appropriate fee as provided in section 10 of
23 this act, the all-terrain vehicle or utility-type vehicle shall be
24 registered by the county treasurer and a validation decal shall be
25 provided which shall be affixed to the upper half of the all-terrain
26 vehicle or utility-type vehicle in such manner as the director
27 prescribes. Any all-terrain vehicle or utility-type vehicle owned by a
28 dealer and operated for demonstration or testing purposes shall be exempt
29 from affixing a validation decal to the all-terrain vehicle or utility-
30 type vehicle. Application for registration shall be made within thirty
31 days after the date of purchase.

1 Sec. 10. The fee for registration of each all-terrain vehicle or
2 utility-type vehicle shall be eight dollars.

3 Sec. 11. The certificate of registration and validation decal
4 issued shall be valid until ownership of the all-terrain vehicle or
5 utility-type vehicle is transferred.

6 Sec. 12. No registration shall be required for any all-terrain
7 vehicle or utility-type vehicle:

8 (1) Owned and used by the United States or by any state or political
9 subdivision thereof;

10 (2) Registered in a country other than the United States and
11 temporarily used within this state; or

12 (3) Covered by a valid registration in another state and which has
13 not been within this state for more than thirty consecutive days.

14 Sec. 13. No political subdivision of this state shall require
15 licensing or registration of all-terrain vehicles or utility-type
16 vehicles covered by sections 7 to 16 of this act.

17 Sec. 14. All-terrain vehicles and utility-type vehicles properly
18 registered in another state shall be allowed to operate in the State of
19 Nebraska on a reciprocal basis.

20 Sec. 15. The county treasurers shall act as agents for the
21 department in the collection of registration fees for all-terrain
22 vehicles and utility-type vehicles. Seven dollars of the funds collected
23 for each such registration shall be retained by the county. The remaining
24 amount of the fees from registration of all-terrain vehicles and utility-
25 type vehicles shall be remitted to the State Treasurer for credit to the
26 Department of Motor Vehicles Cash Fund.

27 Sec. 16. The department shall keep a record of each all-terrain
28 vehicle and utility-type vehicle registered, employing such methods and
29 practices as may be necessary to maintain an accurate record.

30 Sec. 17. Section 60-6,355, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 60-6,355 ~~(1)~~ For purposes of sections 60-6,355 to 60-6,362:

2 (1 a) All-terrain vehicle means any motorized off-highway vehicle
3 which (a i) is fifty inches or less in width, (b ii) has a dry weight of
4 twelve hundred pounds or less, (c iii) travels on three or more
5 nonhighway tires, and (d iv) is designed for operator use only with no
6 passengers or is specifically designed by the original manufacturer for
7 the operator and one passenger; and -

8 ~~(2)(a) (b)(i)~~ Utility-type vehicle means any motorized off-highway
9 vehicle which (i A) is seventy-four inches in width or less, (ii B) is
10 not more than one hundred eighty inches, including the bumper, in length,
11 (iii C) has a dry weight of two thousand pounds or less, and (iv D)
12 travels on four or more nonhighway tires.

13 (b ii) Utility-type vehicle does not include all-terrain vehicles,
14 golf car vehicles, or low-speed vehicles.

15 ~~(2) All-terrain vehicles and utility-type vehicles which have been~~
16 ~~modified or retrofitted with after-market parts to include additional~~
17 ~~equipment not required by sections 60-6,357 and 60-6,358 shall not be~~
18 ~~registered under the Motor Vehicle Registration Act, nor shall such~~
19 ~~modified or retrofitted vehicles be eligible for registration in any~~
20 ~~other category of vehicle defined in the act.~~

21 Sec. 18. Section 77-2701.24, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 77-2701.24 Occasional sale means:

24 (1) A sale, but not a lease or rental, of property which is the
25 subject of any intercompany sale or transfer involving any parent,
26 subsidiary, or brother-sister company relationship under section
27 77-2704.28 and which was either originally acquired prior to June 1,
28 1967, or, if acquired thereafter, the seller or transferor directly or
29 indirectly has previously paid a sales or use tax thereon, including:

30 (a) From one corporation to another corporation pursuant to a
31 reorganization. For purposes of this subdivision, reorganization means a

1 statutory merger or consolidation or the acquisition by a corporation of
2 substantially all of the properties of another corporation when the
3 consideration is solely all or a part of the voting stock of the
4 acquiring corporation or of its parent or subsidiary corporation;

5 (b) In connection with the winding up, dissolution, or liquidation
6 of a corporation only when there is a distribution of the property of
7 such corporation to the shareholders in kind if the portion of the
8 property so distributed to the shareholder is substantially in proportion
9 to the share of stock or securities held by the shareholder;

10 (c) To a corporation for the purpose of organization of such
11 corporation or the contribution of additional capital to such corporation
12 when the former owners of the property transferred are immediately after
13 the transfer in control of the corporation and the stock or securities
14 received by each is substantially in proportion to his or her interest in
15 the property prior to the transfer;

16 (d) To a partnership in the organization of such partnership if the
17 former owners of the property transferred are immediately after the
18 transfer members of such partnership and the interest in the partnership
19 received by each is substantially in proportion to his or her interest in
20 the property prior to the transfer;

21 (e) From a partnership to the members thereof when made in kind in
22 the dissolution of such partnership if the portion of the property so
23 distributed to the members of the partnership is substantially in
24 proportion to the interest in the partnership held by the members;

25 (f) To a limited liability company in the organization of such
26 limited liability company if the former owners of the property
27 transferred are immediately after the transfer members of such limited
28 liability company and the interest in the limited liability company
29 received by each is substantially in proportion to his or her interest in
30 the property prior to the transfer;

31 (g) From a limited liability company to the members thereof when

1 made in kind in the dissolution of such limited liability company if the
2 portion of the property so distributed to the members of the limited
3 liability company is substantially in proportion to the interest in the
4 limited liability company held by the members;

5 (h) From one limited liability company to another limited liability
6 company pursuant to a reorganization; or

7 (i) Any transaction between two persons that qualifies as a tax-free
8 transaction under the Internal Revenue Code;

9 (2) A sale of household goods, personal effects, and services if
10 each of the following conditions is met and if any one condition is not
11 met then the entire gross receipts shall be subject to the tax imposed by
12 section 77-2703:

13 (a) Such sales are by an individual at his or her residence or if
14 more than one individual's property is involved such sales are by one of
15 the individuals involved at the residence of one of the individuals or
16 such sales are by an individual on an online auction site;

17 (b) Such sales do not occur at any residence or on an online auction
18 site for more than three days during a calendar year;

19 (c) Such individual or individuals or any member of any of their
20 households does not conduct or engage in a trade or business in which
21 similar items are sold or services provided;

22 (d) Such property sold was originally acquired for and used for
23 personal use or the service provided may be performed at any individual
24 residence without specialized equipment or supplies; and

25 (e) Such property is not otherwise excepted from the definition of
26 occasional sale;

27 (3) Commencing with any transaction occurring on or after October 1,
28 1985, any sale of business or farm machinery and equipment if each of the
29 following conditions is met and if any one condition is not met the
30 entire gross receipts shall be subject to the tax imposed by section
31 77-2703:

1 (a) Such machinery or equipment was used by the seller or seller's
2 predecessor in a sale described in subdivision (1) of this section as a
3 depreciable capital asset in connection with the farm or business for a
4 period of at least one year;

5 (b) Such property was originally acquired prior to June 1, 1967, or
6 if acquired thereafter, the seller or seller's predecessor in a sale
7 described in subdivision (1) of this section directly or indirectly has
8 previously paid a sales or use tax thereon; and

9 (c) Such property is not otherwise excepted from the definition of
10 occasional sale;

11 (4) Commencing October 1, 1985, a sale by an organization created
12 exclusively for religious purposes or an agent of the organization for
13 such sale if each of the following conditions is met and if any one
14 condition is not met then the entire gross receipts shall be subject to
15 the tax imposed by section 77-2703:

16 (a) All sales occur during an activity conducted by such
17 organization or, if more than one organization is involved, by one of the
18 organizations owning property being sold;

19 (b) The organization only sells property it owns or provides the
20 service during one such activity in a calendar year; and

21 (c) The activity does not last longer than three consecutive days;
22 and

23 (5) Any sale that is made in connection with the sale to a single
24 buyer of all or substantially all of a trade or business if the seller or
25 seller's predecessor in a sale described in subdivision (1) of this
26 section directly or indirectly has previously paid a sales or use tax
27 thereon. This subdivision shall apply to any transaction occurring on or
28 after October 1, 1985.

29 Commencing October 1, 1985, occasional sale does not include any
30 sale directly by or any sale which is supervised or aided by an
31 auctioneer or an agent or employee of an auctioneer.

1 Except for a sale listed in subdivision (1) of this section, an
2 occasional sale does not mean any sale of motor vehicles, semitrailers,
3 ~~or trailers, all-terrain vehicles, or utility-type vehicles~~ as defined in
4 the Motor Vehicle Registration Act or any sale of a motorboat as defined
5 in section 37-1204.

6 Sec. 19. Section 77-2703, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 77-2703 (1) There is hereby imposed a tax at the rate provided in
9 section 77-2701.02 upon the gross receipts from all sales of tangible
10 personal property sold at retail in this state; the gross receipts of
11 every person engaged as a public utility, as a community antenna
12 television service operator, or as a satellite service operator, any
13 person involved in the connecting and installing of the services defined
14 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every
15 person engaged as a retailer of intellectual or entertainment properties
16 referred to in subsection (3) of section 77-2701.16; the gross receipts
17 from the sale of admissions in this state; the gross receipts from the
18 sale of warranties, guarantees, service agreements, or maintenance
19 agreements when the items covered are subject to tax under this section;
20 beginning January 1, 2008, the gross receipts from the sale of bundled
21 transactions when one or more of the products included in the bundle are
22 taxable; the gross receipts from the provision of services defined in
23 subsection (4) of section 77-2701.16; and the gross receipts from the
24 sale of products delivered electronically as described in subsection (9)
25 of section 77-2701.16. Except as provided in section 77-2701.03, when
26 there is a sale, the tax shall be imposed at the rate in effect at the
27 time the gross receipts are realized under the accounting basis used by
28 the retailer to maintain his or her books and records.

29 (a) The tax imposed by this section shall be collected by the
30 retailer from the consumer. It shall constitute a part of the purchase
31 price and until collected shall be a debt from the consumer to the

1 retailer and shall be recoverable at law in the same manner as other
2 debts. The tax required to be collected by the retailer from the consumer
3 constitutes a debt owed by the retailer to this state.

4 (b) It is unlawful for any retailer to advertise, hold out, or state
5 to the public or to any customer, directly or indirectly, that the tax or
6 part thereof will be assumed or absorbed by the retailer, that it will
7 not be added to the selling, renting, or leasing price of the property
8 sold, rented, or leased, or that, if added, it or any part thereof will
9 be refunded. The provisions of this subdivision shall not apply to a
10 public utility.

11 (c) The tax required to be collected by the retailer from the
12 purchaser, unless otherwise provided by statute or by rule and regulation
13 of the Tax Commissioner, shall be displayed separately from the list
14 price, the price advertised in the premises, the marked price, or other
15 price on the sales check or other proof of sales, rentals, or leases.

16 (d) For the purpose of more efficiently securing the payment,
17 collection, and accounting for the sales tax and for the convenience of
18 the retailer in collecting the sales tax, it shall be the duty of the Tax
19 Commissioner to provide a schedule or schedules of the amounts to be
20 collected from the consumer or user to effectuate the computation and
21 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such
22 schedule or schedules shall provide that the tax shall be collected from
23 the consumer or user uniformly on sales according to brackets based on
24 sales prices of the item or items. Retailers may compute the tax due on
25 any transaction on an item or an invoice basis. The rounding rule
26 provided in section 77-3,117 applies.

27 (e) The use of tokens or stamps for the purpose of collecting or
28 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
29 of 1967 or for any other purpose in connection with such taxes is
30 prohibited.

31 (f) For the purpose of the proper administration of the provisions

1 of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
2 sales tax, it shall be presumed that all gross receipts are subject to
3 the tax until the contrary is established. The burden of proving that a
4 sale of property is not a sale at retail is upon the person who makes the
5 sale unless he or she takes from the purchaser (i) a resale certificate
6 to the effect that the property is purchased for the purpose of
7 reselling, leasing, or renting it, (ii) an exemption certificate pursuant
8 to subsection (7) of section 77-2705, or (iii) a direct payment permit
9 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
10 certificate, exemption certificate, or direct payment permit shall be
11 conclusive proof for the seller that the sale was made for resale or was
12 exempt or that the tax will be paid directly to the state.

13 (g) In the rental or lease of automobiles, trucks, trailers,
14 semitrailers, and truck-tractors as defined in the Motor Vehicle
15 Registration Act, the tax shall be collected by the lessor on the rental
16 or lease price, except as otherwise provided within this section.

17 (h) In the rental or lease of automobiles, trucks, trailers,
18 semitrailers, and truck-tractors as defined in the act, for periods of
19 one year or more, the lessor may elect not to collect and remit the sales
20 tax on the gross receipts and instead pay a sales tax on the cost of such
21 vehicle. If such election is made, it shall be made pursuant to the
22 following conditions:

23 (i) Notice of the desire to make such election shall be filed with
24 the Tax Commissioner and shall not become effective until the Tax
25 Commissioner is satisfied that the taxpayer has complied with all
26 conditions of this subsection and all rules and regulations of the Tax
27 Commissioner;

28 (ii) Such election when made shall continue in force and effect for
29 a period of not less than two years and thereafter until such time as the
30 lessor elects to terminate the election;

31 (iii) When such election is made, it shall apply to all vehicles of

1 the lessor rented or leased for periods of one year or more except
2 vehicles to be leased to common or contract carriers who provide to the
3 lessor a valid common or contract carrier exemption certificate. If the
4 lessor rents or leases other vehicles for periods of less than one year,
5 such lessor shall maintain his or her books and records and his or her
6 accounting procedure as the Tax Commissioner prescribes; and

7 (iv) The Tax Commissioner by rule and regulation shall prescribe the
8 contents and form of the notice of election, a procedure for the
9 determination of the tax base of vehicles which are under an existing
10 lease at the time such election becomes effective, the method and manner
11 for terminating such election, and such other rules and regulations as
12 may be necessary for the proper administration of this subdivision.

13 (i) The tax imposed by this section on the sales of motor vehicles,
14 semitrailers, and trailers as defined in sections 60-339, 60-348, and
15 60-354 shall be the liability of the purchaser and, with the exception of
16 motor vehicles, semitrailers, and trailers registered pursuant to section
17 60-3,198, the tax shall be collected by the county treasurer as provided
18 in the Motor Vehicle Registration Act at the time the purchaser makes
19 application for the registration of the motor vehicle, semitrailer, or
20 trailer for operation upon the highways of this state. The tax imposed by
21 this section on motor vehicles, semitrailers, and trailers registered
22 pursuant to section 60-3,198 shall be collected by the Department of
23 Motor Vehicles at the time the purchaser makes application for the
24 registration of the motor vehicle, semitrailer, or trailer for operation
25 upon the highways of this state. At the time of the sale of any motor
26 vehicle, semitrailer, or trailer, the seller shall (i) state on the sales
27 invoice the dollar amount of the tax imposed under this section and (ii)
28 furnish to the purchaser a certified statement of the transaction, in
29 such form as the Tax Commissioner prescribes, setting forth as a minimum
30 the total sales price, the allowance for any trade-in, and the difference
31 between the two. The sales tax due shall be computed on the difference

1 between the total sales price and the allowance for any trade-in as
2 disclosed by such certified statement. Any seller who willfully
3 understates the amount upon which the sales tax is due shall be subject
4 to a penalty of one thousand dollars. A copy of such certified statement
5 shall also be furnished to the Tax Commissioner. Any seller who fails or
6 refuses to furnish such certified statement shall be guilty of a
7 misdemeanor and shall, upon conviction thereof, be punished by a fine of
8 not less than twenty-five dollars nor more than one hundred dollars. If
9 the purchaser does not register such motor vehicle, semitrailer, or
10 trailer for operation on the highways of this state within thirty days of
11 the purchase thereof, the tax imposed by this section shall immediately
12 thereafter be paid by the purchaser to the county treasurer or the
13 Department of Motor Vehicles. If the tax is not paid on or before the
14 thirtieth day after its purchase, the county treasurer or Department of
15 Motor Vehicles shall also collect from the purchaser interest from the
16 thirtieth day through the date of payment and sales tax penalties as
17 provided in the Nebraska Revenue Act of 1967. The county treasurer or
18 Department of Motor Vehicles shall report and remit the tax so collected
19 to the Tax Commissioner by the fifteenth day of the following month. The
20 county treasurer shall deduct and withhold for the use of the county
21 general fund, from all amounts required to be collected under this
22 subsection, the collection fee permitted to be deducted by any retailer
23 collecting the sales tax. The Department of Motor Vehicles shall deduct,
24 withhold, and deposit in the Motor Carrier Division Cash Fund the
25 collection fee permitted to be deducted by any retailer collecting the
26 sales tax. The collection fee shall be forfeited if the county treasurer
27 or Department of Motor Vehicles violates any rule or regulation
28 pertaining to the collection of the use tax.

29 (j)(i) The tax imposed by this section on the sale of a motorboat as
30 defined in section 37-1204 shall be the liability of the purchaser. The
31 tax shall be collected by the county treasurer at the time the purchaser

1 makes application for the registration of the motorboat. At the time of
2 the sale of a motorboat, the seller shall (A) state on the sales invoice
3 the dollar amount of the tax imposed under this section and (B) furnish
4 to the purchaser a certified statement of the transaction, in such form
5 as the Tax Commissioner prescribes, setting forth as a minimum the total
6 sales price, the allowance for any trade-in, and the difference between
7 the two. The sales tax due shall be computed on the difference between
8 the total sales price and the allowance for any trade-in as disclosed by
9 such certified statement. Any seller who willfully understates the amount
10 upon which the sales tax is due shall be subject to a penalty of one
11 thousand dollars. A copy of such certified statement shall also be
12 furnished to the Tax Commissioner. Any seller who fails or refuses to
13 furnish such certified statement shall be guilty of a misdemeanor and
14 shall, upon conviction thereof, be punished by a fine of not less than
15 twenty-five dollars nor more than one hundred dollars. If the purchaser
16 does not register such motorboat within thirty days of the purchase
17 thereof, the tax imposed by this section shall immediately thereafter be
18 paid by the purchaser to the county treasurer. If the tax is not paid on
19 or before the thirtieth day after its purchase, the county treasurer
20 shall also collect from the purchaser interest from the thirtieth day
21 through the date of payment and sales tax penalties as provided in the
22 Nebraska Revenue Act of 1967. The county treasurer shall report and remit
23 the tax so collected to the Tax Commissioner by the fifteenth day of the
24 following month. The county treasurer shall deduct and withhold for the
25 use of the county general fund, from all amounts required to be collected
26 under this subsection, the collection fee permitted to be deducted by any
27 retailer collecting the sales tax. The collection fee shall be forfeited
28 if the county treasurer violates any rule or regulation pertaining to the
29 collection of the use tax.

30 (ii) In the rental or lease of motorboats, the tax shall be
31 collected by the lessor on the rental or lease price.

1 (k)(i) The tax imposed by this section on the sale of an all-terrain
2 vehicle as defined in section 60-103 or a utility-type vehicle as defined
3 in section 60-135.01 shall be the liability of the purchaser. With the
4 exception of all-terrain vehicles and utility-type vehicles purchased
5 from a dealer as defined in section 7 of this act, the tax shall be
6 collected by the county treasurer at the time the purchaser makes
7 application for the certificate of title for the all-terrain vehicle or
8 utility-type vehicle. The tax imposed by this section on all-terrain
9 vehicles and utility-type vehicles purchased from a dealer as defined in
10 section 7 of this act shall be collected by the dealer at the time of
11 sale. At the time of the sale of an all-terrain vehicle or a utility-type
12 vehicle, the seller shall (A) state on the sales invoice the dollar
13 amount of the tax imposed under this section and (B) furnish to the
14 purchaser a certified statement of the transaction, in such form as the
15 Tax Commissioner prescribes, setting forth as a minimum the total sales
16 price, the allowance for any trade-in, and the difference between the
17 two. The sales tax due shall be computed on the difference between the
18 total sales price and the allowance for any trade-in as disclosed by such
19 certified statement. Any seller who willfully understates the amount upon
20 which the sales tax is due shall be subject to a penalty of one thousand
21 dollars. A copy of such certified statement shall also be furnished to
22 the Tax Commissioner. Any seller who fails or refuses to furnish such
23 certified statement shall be guilty of a misdemeanor and shall, upon
24 conviction thereof, be punished by a fine of not less than twenty-five
25 dollars nor more than one hundred dollars. If the purchaser purchased the
26 all-terrain vehicle or utility-type vehicle from a person other than a
27 dealer as defined in section 7 of this act and the purchaser does not
28 obtain a certificate of title for such all-terrain vehicle or utility-
29 type vehicle within thirty days of the purchase thereof, the tax imposed
30 by this section shall immediately thereafter be paid by the purchaser to
31 the county treasurer. If the purchaser purchased the all-terrain vehicle

1 or utility-type vehicle from a person other than a dealer as defined in
2 section 7 of this act and the tax is not paid on or before the thirtieth
3 day after its purchase, the county treasurer shall also collect from the
4 purchaser interest from the thirtieth day through the date of payment and
5 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
6 county treasurer or dealer shall report and remit the tax so collected to
7 the Tax Commissioner by the fifteenth day of the following month. The
8 county treasurer shall deduct and withhold for the use of the county
9 general fund or the dealer shall deduct and withhold, from all amounts
10 required to be collected under this subsection, the collection fee
11 permitted to be deducted by any retailer collecting the sales tax. The
12 collection fee shall be forfeited if the county treasurer or dealer
13 violates any rule or regulation pertaining to the collection of the use
14 tax.

15 (ii) In the rental or lease of an all-terrain vehicle or a utility-
16 type vehicle, the tax shall be collected by the lessor on the rental or
17 lease price.

18 (iii) County treasurers are appointed as sales and use tax
19 collectors for all sales of all-terrain vehicles or utility-type vehicles
20 made outside of this state to purchasers or users of all-terrain vehicles
21 or utility-type vehicles which are required to have a certificate of
22 title in this state. The county treasurer shall collect the applicable
23 use tax from the purchaser of an all-terrain vehicle or a utility-type
24 vehicle purchased outside of this state at the time application for a
25 certificate of title is made. The full use tax on the purchase price
26 shall be collected by the county treasurer if a sales or occupation tax
27 was not paid by the purchaser in the state of purchase. If a sales or
28 occupation tax was lawfully paid in the state of purchase at a rate less
29 than the tax imposed in this state, use tax must be collected on the
30 difference as a condition for obtaining a certificate of title in this
31 state.

1 (1) The Tax Commissioner shall adopt and promulgate necessary rules
2 and regulations for determining the amount subject to the taxes imposed
3 by this section so as to insure that the full amount of any applicable
4 tax is paid in cases in which a sale is made of which a part is subject
5 to the taxes imposed by this section and a part of which is not so
6 subject and a separate accounting is not practical or economical.

7 (2) A use tax is hereby imposed on the storage, use, or other
8 consumption in this state of property purchased, leased, or rented from
9 any retailer and on any transaction the gross receipts of which are
10 subject to tax under subsection (1) of this section on or after June 1,
11 1967, for storage, use, or other consumption in this state at the rate
12 set as provided in subsection (1) of this section on the sales price of
13 the property or, in the case of leases or rentals, of the lease or rental
14 prices.

15 (a) Every person storing, using, or otherwise consuming in this
16 state property purchased from a retailer or leased or rented from another
17 person for such purpose shall be liable for the use tax at the rate in
18 effect when his or her liability for the use tax becomes certain under
19 the accounting basis used to maintain his or her books and records. His
20 or her liability shall not be extinguished until the use tax has been
21 paid to this state, except that a receipt from a retailer engaged in
22 business in this state or from a retailer who is authorized by the Tax
23 Commissioner, under such rules and regulations as he or she may
24 prescribe, to collect the sales tax and who is, for the purposes of the
25 Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a
26 retailer engaged in business in this state, which receipt is given to the
27 purchaser pursuant to subdivision (b) of this subsection, shall be
28 sufficient to relieve the purchaser from further liability for the tax to
29 which the receipt refers.

30 (b) Every retailer engaged in business in this state and selling,
31 leasing, or renting property for storage, use, or other consumption in

1 this state shall, at the time of making any sale, collect any tax which
2 may be due from the purchaser and shall give to the purchaser, upon
3 request, a receipt therefor in the manner and form prescribed by the Tax
4 Commissioner.

5 (c) The Tax Commissioner, in order to facilitate the proper
6 administration of the use tax, may designate such person or persons as he
7 or she may deem necessary to be use tax collectors and delegate to such
8 persons such authority as is necessary to collect any use tax which is
9 due and payable to the State of Nebraska. The Tax Commissioner may
10 require of all persons so designated a surety bond in favor of the State
11 of Nebraska to insure against any misappropriation of state funds so
12 collected. The Tax Commissioner may require any tax official, city,
13 county, or state, to collect the use tax on behalf of the state. All
14 persons designated to or required to collect the use tax shall account
15 for such collections in the manner prescribed by the Tax Commissioner.
16 Nothing in this subdivision shall be so construed as to prevent the Tax
17 Commissioner or his or her employees from collecting any use taxes due
18 and payable to the State of Nebraska.

19 (d) All persons designated to collect the use tax and all persons
20 required to collect the use tax shall forward the total of such
21 collections to the Tax Commissioner at such time and in such manner as
22 the Tax Commissioner may prescribe. For all use taxes collected prior to
23 October 1, 2002, such collectors of the use tax shall deduct and withhold
24 from the amount of taxes collected two and one-half percent of the first
25 three thousand dollars remitted each month and one-half of one percent of
26 all amounts in excess of three thousand dollars remitted each month as
27 reimbursement for the cost of collecting the tax. For use taxes collected
28 on and after October 1, 2002, such collectors of the use tax shall deduct
29 and withhold from the amount of taxes collected two and one-half percent
30 of the first three thousand dollars remitted each month as reimbursement
31 for the cost of collecting the tax. Any such deduction shall be forfeited

1 to the State of Nebraska if such collector violates any rule, regulation,
2 or directive of the Tax Commissioner.

3 (e) For the purpose of the proper administration of the Nebraska
4 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
5 presumed that property sold, leased, or rented by any person for delivery
6 in this state is sold, leased, or rented for storage, use, or other
7 consumption in this state until the contrary is established. The burden
8 of proving the contrary is upon the person who purchases, leases, or
9 rents the property.

10 (f) For the purpose of the proper administration of the Nebraska
11 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
12 of property to an advertising agency which purchases the property as an
13 agent for a disclosed or undisclosed principal, the advertising agency is
14 and remains liable for the sales and use tax on the purchase the same as
15 if the principal had made the purchase directly.

16 Sec. 20. This act becomes operative on October 1, 2015.

17 Sec. 21. Original section 77-2701.24, Reissue Revised Statutes of
18 Nebraska, and sections 60-123, 60-153, 60-301, 60-305, 60-339, 60-358.01,
19 60-6,355, and 77-2703, Revised Statutes Cumulative Supplement, 2014, are
20 repealed.