

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 961

Introduced by Friesen, 34.

Read first time January 13, 2020

Committee:

- 1 A BILL FOR AN ACT relating to motor vehicles; to amend section 77-2703,
- 2 Revised Statutes Supplement, 2019; to adopt the Peer-to-Peer Vehicle
- 3 Sharing Program Act; to provide for collection of sales and use tax
- 4 on certain vehicle rentals; to harmonize provisions; and to repeal
- 5 the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 19 of this act shall be known and may be
2 cited as the Peer-to-Peer Vehicle Sharing Program Act.

3 Sec. 2. For purposes of the Peer-to-Peer Vehicle Sharing Program
4 Act, unless the context otherwise requires:

5 (1) Agreement means an agreement established through a peer-to-peer
6 vehicle sharing program that serves as a contract between a program, an
7 owner, and a driver and describes the specific terms and conditions of
8 the agreement that govern the use of a vehicle facilitated by such
9 program, including the sharing period and location or locations for
10 transfer of control of vehicle;

11 (2) Delivery period means the period of time during which a vehicle
12 is being delivered to the location of the start time, if applicable, as
13 documented by the agreement;

14 (3) Driver means an individual who has been authorized to drive a
15 vehicle by an owner under an agreement;

16 (4) Owner means the registered owner of a vehicle made available for
17 sharing facilitated by a peer-to-peer vehicle sharing program;

18 (5) Peer-to-peer vehicle sharing program or program means a person
19 or entity that connects vehicle owners with vehicle drivers to facilitate
20 the sharing of vehicles for consideration. A program is not a
21 transportation network company as defined in section 75-323;

22 (6) Rental company means any entity or person engaged in the
23 business of facilitating vehicle rental transactions in this state.
24 Rental company does not include an owner who makes no more than three
25 vehicles available for sharing through a program or combination of
26 programs during a twelve-month period;

27 (7) Rental transaction means the transfer of possession of a
28 vehicle, for consideration, without the transfer of ownership of the
29 vehicle;

30 (8) Sharing means the authorized use of a vehicle by an individual
31 other than an owner through a peer-to-peer vehicle sharing program;

1 (9) Sharing period means the period of time that commences with the
2 delivery period or, if there is no delivery period, that commences with
3 the start time and, in either case, ends at the termination time;

4 (10) Start time means the time when a vehicle becomes subject to the
5 control of a driver at or after the time the reservation is scheduled to
6 begin as documented by the agreement;

7 (11) Termination time means the earliest of the following events:

8 (a) The expiration of the agreed upon period of time established for
9 the use of a vehicle according to the terms of the agreement, if the
10 vehicle is delivered to the location agreed upon in the agreement;

11 (b) When a vehicle is returned to a location as alternatively agreed
12 upon by the owner and driver as communicated through the peer-to-peer
13 vehicle sharing program; or

14 (c) When an owner, or his or her authorized designee, takes
15 possession and control of a vehicle; and

16 (12) Vehicle means a personal motor vehicle or rental company
17 vehicle that is available for use through a peer-to-peer vehicle sharing
18 program for a sharing period of thirty days or less which is registered
19 as a private passenger vehicle or rental company vehicle under the laws
20 of Nebraska or another state.

21 Sec. 3. (1) Notwithstanding any other provision of law or any
22 provision in an owner's policy of motor vehicle liability insurance, in
23 the event of a loss or injury that occurs during a sharing period, a
24 program shall:

25 (a) Assume the liability of the owner for any bodily injury or
26 property damage to third parties, uninsured and underinsured motorist
27 benefits, and personal injury protection losses during the sharing period
28 in an amount stated in the agreement, and which amount may not be less
29 than that set forth in section 60-310; and

30 (b) Retain such liability regardless of a lapse in, or otherwise
31 absence of, any coverage under which a program is insured.

1 (2) Notwithstanding the definition of termination time, a program
2 shall not be liable when an owner:

3 (a) Makes a material, intentional, or fraudulent misrepresentation,
4 or a material, intentional, or fraudulent omission to a program before
5 the sharing period in which the loss occurred; or

6 (b) Acts in concert with a driver who fails to return a vehicle
7 pursuant to the terms of an agreement.

8 Sec. 4. (1) A program shall ensure that, during each sharing
9 period, financial responsibility for a vehicle is provided in amounts no
10 less than the minimum amounts set forth in section 60-310 that:

11 (a) Recognizes that the vehicle is made available and used through
12 the program; or

13 (b) Does not exclude use of the vehicle by a driver through the
14 program.

15 (2) The financial responsibility required under subsection (1) of
16 this section may be satisfied by motor vehicle liability insurance or
17 other acceptable means of demonstrating financial responsibility in this
18 state, voluntarily maintained by:

19 (a) The owner;

20 (b) The driver;

21 (c) The program; or

22 (d) Any combination of owner, driver, and program.

23 (3) The financial responsibility required in subsection (1) of this
24 section and satisfied pursuant to subsection (2) of this section shall be
25 the primary responsibility for losses during the sharing period.

26 (4) A program shall:

27 (a) Afford primary financial responsibility for a claim when it is
28 in whole or in part providing the financial responsibility required under
29 section 3 of this act if:

30 (i) A dispute exists as to who was in control of the vehicle at the
31 time of the loss; and

1 (ii) The program does not have available, did not retain, or fails
2 to provide the information required by section 7 of this act; and

3 (b) Be indemnified by the owner's personal policy of motor vehicle
4 liability insurance to the extent of such policy's obligation, if any, if
5 it is determined that the owner was in control of the vehicle at the time
6 of the loss.

7 (5) If insurance maintained by the owner or the driver in accordance
8 with subsection (2) of this section has lapsed or does not provide the
9 required financial responsibility, the program or its insurer shall
10 provide the coverage required by subsection (1) of this section beginning
11 with the first dollar of a claim and have the duty to defend such claim
12 except under circumstances as set forth in subsection (2) of section 3 of
13 this act.

14 (6) Financial responsibility maintained by the program shall not be
15 dependent on another automobile insurer first denying a claim, nor shall
16 another automobile insurance policy be required to first deny a claim.

17 (7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

18 (a) Limits the liability of a program for any act or omission of the
19 program itself that results in injury to any person as a result of the
20 use of a vehicle through the program; or

21 (b) Limits the ability of a program, by contract, to seek
22 indemnification from an owner or a driver for economic loss sustained by
23 the program resulting from a breach of the terms and conditions of an
24 agreement.

25 Sec. 5. At the time an owner registers a vehicle for use through
26 the program and again prior to the time such owner makes such vehicle
27 available for use through such program, the program shall notify the
28 owner that if the vehicle has a lien against it, the use of the vehicle
29 through the program, including use without physical damage coverage, may
30 violate the terms of the contract with the lienholder.

31 Sec. 6. (1) An authorized insurer that writes motor vehicle

1 liability insurance in this state may exclude any and all coverage and
2 the duty to defend or indemnify for any claim afforded under the owner's
3 motor vehicle liability insurance policy, including, but not limited to:

4 (a) Liability coverage for bodily injury and property damage;

5 (b) Personal injury protection coverage as defined;

6 (c) Uninsured and underinsured motorist coverage;

7 (d) Medical payments coverage;

8 (e) Comprehensive physical damage coverage; and

9 (f) Collision physical damage coverage.

10 (2) Nothing in the Peer-to-Peer Vehicle Sharing Program Act
11 invalidates or limits an exclusion contained in a motor vehicle liability
12 insurance policy, including any insurance policy in use or approved for
13 use that excludes coverage for motor vehicles made available for rent,
14 hire, or for any business use, including sharing.

15 Sec. 7. (1) A program shall collect and verify records pertaining
16 to the use of a vehicle, including, but not limited to, sharing periods,
17 fees paid by a driver, and revenues received by an owner.

18 (2) Pursuant to all applicable federal and state privacy laws, and
19 after receiving the informed consent of the owner and driver, the program
20 shall provide the information collected pursuant to subsection (1) of
21 this section upon request to the owner, the owner's insurer, and the
22 driver's insurer to facilitate a claim coverage investigation. Providing
23 notice of the requirements of this section in the agreement shall
24 constitute informed consent.

25 (3) A program shall retain the records required in this section for
26 a time period not less than five years.

27 Sec. 8. A motor vehicle insurer that defends or indemnifies a claim
28 arising from the operation of a vehicle that is excluded under the terms
29 of its policy shall have the right to seek contribution against a program
30 if the claim is made against the owner or driver for loss or injury that
31 occurs during the sharing period.

1 Sec. 9. (1) Notwithstanding any other provision of law, a program
2 shall have an insurable interest in a vehicle during the sharing period.

3 (2) Nothing in this section shall impose liability on a program to
4 maintain the coverage required by section 3 of this act.

5 (3) A program may own and maintain as the named insured one or more
6 policies of motor vehicle liability insurance that provides coverage for:

7 (a) Liabilities assumed by the program under the agreement;

8 (b) Liability of an owner;

9 (c) Damage or loss to a vehicle; or

10 (d) Liability of a driver.

11 Sec. 10. A program and an owner shall be exempt from vicarious
12 liability in accordance with 49 U.S.C. 30106(a) and under any state or
13 local law that imposes liability solely based on vehicle ownership.

14 Sec. 11. (1) Each agreement made in this state shall disclose to
15 each owner and driver:

16 (a) Any right of the program to seek indemnification from an owner
17 or a driver for economic loss sustained by the program resulting from a
18 breach of the terms and conditions of the agreement;

19 (b) That a motor vehicle liability insurance policy issued to an
20 owner for the vehicle, or to a driver, may not provide a defense or
21 indemnity for any claim asserted by the program;

22 (c) That a program's financial responsibility afforded to each owner
23 and driver is available only during the sharing period;

24 (d) That for any use of a vehicle by a driver after the termination
25 time, a driver or owner may not have coverage;

26 (e) The daily rate, fees, costs, and, if applicable, any insurance
27 or protection package costs that are charged to an owner or a driver; and

28 (f) That an owner's motor vehicle liability insurance may not
29 provide coverage for the vehicle.

30 (2) Each agreement made in this state shall disclose to each driver:

31 (a) An emergency telephone number to personnel capable of fielding

1 roadside assistance and other customer service inquiries; and

2 (b) Any conditions under which a driver must maintain a personal
3 automobile insurance policy and any required coverage limits on a primary
4 basis in order to use a vehicle through the program.

5 Sec. 12. A program shall have sole responsibility for any
6 equipment, such as a global positioning system or other special
7 equipment, that is put in or on a vehicle to monitor or facilitate
8 sharing and shall agree to indemnify and hold harmless the owner for any
9 damage to or theft of such equipment during the sharing period not caused
10 by the owner. A program has the right to seek indemnity from a driver for
11 any loss or damage to such equipment that occurs during the sharing
12 period.

13 Sec. 13. (1) At the time an owner registers a vehicle for use by a
14 program, and prior to the time when the owner makes a vehicle available
15 for use by such program, the program shall:

16 (a) Verify that the vehicle does not have any safety recalls for
17 which the repairs have not been made; and

18 (b) Notify the owner of the requirements under subsection (3) of
19 this section.

20 (2) A program shall periodically, and in no case less frequently
21 than once in each seventy-two-hour period, verify that all vehicles
22 available for use through the program are not subject to any open safety
23 recalls for which repairs have not been made.

24 (3) An owner shall:

25 (a) Not make a vehicle available for use through a program if the
26 owner has received notice of a safety recall on such vehicle until the
27 safety recall repair has been made;

28 (b) Upon receipt of notice of a safety recall on a vehicle when such
29 vehicle is available for use through a program, remove the vehicle from
30 availability as soon as practicably possible, and in no case more than
31 forty-eight hours after receiving the notice of the safety recall and

1 until the safety recall repair has been made; and

2 (c) Upon receipt of notice of a safety recall on a vehicle, and in
3 no case more than forty-eight hours after such receipt, when such vehicle
4 is in the possession of a driver, notify the program of the safety recall
5 so that the program may notify the driver and the vehicle can be removed
6 from use until the owner makes the necessary safety recall repair.

7 Sec. 14. (1) A program shall not enter into an agreement with any
8 driver unless such driver:

9 (a) Holds a driver license issued in this state authorizing the
10 driver to operate vehicles of the class of vehicle used by the program;
11 or

12 (b) Is a nonresident who:

13 (i) Holds a driver license issued by the state or country of the
14 driver's residence that authorizes the driver in that state or country to
15 drive vehicles of the class of vehicle used by the program; and

16 (ii) Is at least the same age as that required of a resident to
17 drive in this state.

18 (2) A program shall keep a record of:

19 (a) The name and address of each driver; and

20 (b) The driver license number and place of issuance for each driver
21 who operates a vehicle under the agreement.

22 Sec. 15. (1) Sharing and the agreement are a consumer transaction
23 for the purposes of the Uniform Deceptive Trade Practices Act. The
24 program and owner are the suppliers and the driver is the consumer for
25 the purposes of such act.

26 (2) Failure to comply with the Peer-to-Peer Vehicle Sharing Program
27 Act regarding information gathering and retention, disclosures, safety
28 recalls, or responsibility for equipment is deemed a deceptive trade
29 practice in violation of the Uniform Deceptive Trade Practices Act. A
30 person injured by a violation of sections 11, 12, 13, or 14 of this act
31 may bring a cause of action to seek the same relief available to a

1 consumer under the Uniform Deceptive Trade Practices Act, and the
2 Attorney General may enforce the same.

3 (3) A program is not liable for a violation described under
4 subsection (2) of this section if the violation is the result of false,
5 misleading, or inaccurate information provided to the program by an owner
6 or driver and the program reasonably relied on such information in good
7 faith.

8 Sec. 16. Nothing in the Peer-to-Peer Vehicle Sharing Program Act
9 shall be construed to affect the taxability of sharing pursuant to
10 Chapter 77 or any local or municipal taxing authority.

11 Sec. 17. (1) A notice or disclosure required to be provided,
12 delivered, posted, or otherwise made available by a rental company or
13 program shall be deemed timely and effectively made if the notice or
14 disclosure is provided, delivered, posted, or otherwise made
15 electronically at or before the time required or included in a master or
16 member agreement in effect at the time of the rental transaction or
17 program agreement.

18 (2) For purposes of this section, a master or member agreement shall
19 include, but not be limited to, a service:

20 (a) Offered by a rental company or program that permits customers to
21 bypass a retail service location and obtain a product or service
22 directly;

23 (b) Where a rental company or program does not require customers to
24 execute an agreement at the time of service; or

25 (c) Where the customer does not receive the terms and conditions at
26 the time of service.

27 (3) Electronic or written acceptance shall be deemed a valid form of
28 acceptance of a notice or disclosure.

29 (4) Acceptance shall remain effective until such time as the
30 acceptance is affirmatively withdrawn by the customer.

31 (5) A notice or disclosure made pursuant to this section shall be

1 exempt from placement or stylistic display requirements, including, but
2 not limited to, location, font size, typeset, or other specifically
3 stated description if the notice or disclosure is generally consistent in
4 appearance with the entirety of the communication in which it is
5 contained.

6 Sec. 18. (1) A program, an owner, or a rental company shall, upon
7 request of an airport or airport authority, enter into an agreement,
8 which agreement may be a concession agreement, prior to:

9 (a) Listing, publishing, or advertising vehicles parked on airport
10 property or at airport facilities;

11 (b) Facilitating the use of vehicles to transport airport customers
12 to or from airport property or airport facilities, regardless of whether
13 such use is to be initiated or has a start time which occurs on or off of
14 airport property or airport facilities; or

15 (c) Promoting or marketing vehicles to transport airport customers
16 to or from airport property or airport facilities, regardless of whether
17 such transportation is to be initiated or has a start time which occurs
18 on or off of airport property or airport facilities.

19 (2) The agreement required in subsection (1) of this section shall
20 set forth the same or reasonably similar standards, regulations,
21 procedures, fees, and access requirements applicable to a program, an
22 owner, or a rental company.

23 (3) If a program, an owner, or a rental company (a) fails to enter
24 into an agreement upon the request of an airport as provided in
25 subsection (1) of this section or (b) engages in any activity described
26 in subdivisions (1)(a), (b), or (c) of this section prior to entering
27 into such agreement, the affected airport may seek injunctive relief to
28 prohibit operations at such airport by such program, owner, or rental
29 company and bring an action to recover any damages.

30 Sec. 19. In the event a rental company or program facilitates
31 rental or sharing via digital, electronic, or other means that allow

1 customers to obtain possession of a vehicle without in-person contact
2 with an agent or employee of the rental company or program, or when the
3 customer does not execute a contract at the time of the transaction, the
4 rental company or program shall be deemed to have met all obligations to
5 physically inspect and compare the customer's driver license when such
6 rental company or program (1) at the time the customer enrolls in a
7 membership program, master agreement, or other means of establishing use
8 of the rental company's or program's services, or at any time thereafter,
9 requires verification that the customer is a licensed driver or (2) prior
10 to the customer taking possession of the vehicle, the rental company or
11 program requires documentation that verifies the customer's identity.

12 Sec. 20. Section 77-2703, Revised Statutes Supplement, 2019, is
13 amended to read:

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

1 there is a sale, the tax shall be imposed at the rate in effect at the
2 time the gross receipts are realized under the accounting basis used by
3 the retailer to maintain his or her books and records.

4 (a) The tax imposed by this section shall be collected by the
5 retailer from the consumer. It shall constitute a part of the purchase
6 price and until collected shall be a debt from the consumer to the
7 retailer and shall be recoverable at law in the same manner as other
8 debts. The tax required to be collected by the retailer from the consumer
9 constitutes a debt owed by the retailer to this state.

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

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

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

1 provided in section 77-3,117 applies.

2 (e) The use of tokens or stamps for the purpose of collecting or
3 enforcing the collection of the taxes imposed in the Nebraska Revenue Act
4 of 1967 or for any other purpose in connection with such taxes is
5 prohibited.

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

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

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

29 (A) ~~(i)~~ Notice of the desire to make such election shall be filed
30 with the Tax Commissioner and shall not become effective until the Tax
31 Commissioner is satisfied that the taxpayer has complied with all

1 conditions of this subsection and all rules and regulations of the Tax
2 Commissioner;

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

6 (C) (iii) When such election is made, it shall apply to all vehicles
7 of the lessor rented or leased for periods of one year or more except
8 vehicles to be leased to common or contract carriers who provide to the
9 lessor a valid common or contract carrier exemption certificate. If the
10 lessor rents or leases other vehicles for periods of less than one year,
11 such lessor shall maintain his or her books and records and his or her
12 accounting procedure as the Tax Commissioner prescribes; and

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

19 (ii) In the rental of a vehicle as defined in section 2 of this act
20 which is made through a digital platform or other digital medium, the tax
21 shall be collected on the rental price by the party facilitating the
22 rental. For purposes of this subdivision, rental means a rental
23 transaction as defined in section 2 of this act and conducted under the
24 Peer-to-Peer Vehicle Sharing Program Act.

25 (i) The tax imposed by this section on the sales of motor vehicles,
26 semitrailers, and trailers as defined in sections 60-339, 60-348, and
27 60-354 shall be the liability of the purchaser and, with the exception of
28 motor vehicles, semitrailers, and trailers registered pursuant to section
29 60-3,198, the tax shall be collected by the county treasurer as provided
30 in the Motor Vehicle Registration Act or by an approved licensed dealer
31 participating in the electronic dealer services system pursuant to

1 section 60-1507 at the time the purchaser makes application for the
2 registration of the motor vehicle, semitrailer, or trailer for operation
3 upon the highways of this state. The tax imposed by this section on motor
4 vehicles, semitrailers, and trailers registered pursuant to section
5 60-3,198 shall be collected by the Department of Motor Vehicles at the
6 time the purchaser makes application for the registration of the motor
7 vehicle, semitrailer, or trailer for operation upon the highways of this
8 state. At the time of the sale of any motor vehicle, semitrailer, or
9 trailer, the seller shall (i) state on the sales invoice the dollar
10 amount of the tax imposed under this section and (ii) furnish to the
11 purchaser a certified statement of the transaction, in such form as the
12 Tax Commissioner prescribes, setting forth as a minimum the total sales
13 price, the allowance for any trade-in, and the difference between the
14 two. The sales tax due shall be computed on the difference between the
15 total sales price and the allowance for any trade-in as disclosed by such
16 certified statement. Any seller who willfully understates the amount upon
17 which the sales tax is due shall be subject to a penalty of one thousand
18 dollars. A copy of such certified statement shall also be furnished to
19 the Tax Commissioner. Any seller who fails or refuses to furnish such
20 certified statement shall be guilty of a misdemeanor and shall, upon
21 conviction thereof, be punished by a fine of not less than twenty-five
22 dollars nor more than one hundred dollars. If the purchaser does not
23 register such motor vehicle, semitrailer, or trailer for operation on the
24 highways of this state within thirty days of the purchase thereof, the
25 tax imposed by this section shall immediately thereafter be paid by the
26 purchaser to the county treasurer or the Department of Motor Vehicles. If
27 the tax is not paid on or before the thirtieth day after its purchase,
28 the county treasurer or Department of Motor Vehicles shall also collect
29 from the purchaser interest from the thirtieth day through the date of
30 payment and sales tax penalties as provided in the Nebraska Revenue Act
31 of 1967. The county treasurer or Department of Motor Vehicles shall

1 report and remit the tax so collected to the Tax Commissioner by the
2 fifteenth day of the following month. The county treasurer, for his or
3 her collection fee, shall deduct and withhold, from all amounts required
4 to be collected under this subsection, the collection fee permitted to be
5 deducted by any retailer collecting the sales tax, all of which shall be
6 deposited in the county general fund, plus an additional amount equal to
7 one-half of one percent of all amounts in excess of six thousand dollars
8 remitted each month. Prior to January 1, 2023, fifty percent of such
9 additional amount shall be deposited in the county general fund and fifty
10 percent of such additional amount shall be deposited in the county road
11 fund. On and after January 1, 2023, seventy-five percent of such
12 additional amount shall be deposited in the county general fund and
13 twenty-five percent of such additional amount shall be deposited in the
14 county road fund. In any county with a population of one hundred fifty
15 thousand inhabitants or more, the county treasurer shall remit one dollar
16 of his or her collection fee for each of the first five thousand motor
17 vehicles, semitrailers, or trailers registered with such county treasurer
18 on or after January 1, 2020, to the State Treasurer for credit to the
19 Department of Revenue Enforcement Fund. The Department of Motor Vehicles,
20 for its collection fee, shall deduct, withhold, and deposit in the Motor
21 Carrier Division Cash Fund the collection fee permitted to be deducted by
22 any retailer collecting the sales tax. The collection fee for the county
23 treasurer or the Department of Motor Vehicles shall be forfeited if the
24 county treasurer or department violates any rule or regulation pertaining
25 to the collection of the use tax.

26 (j)(i) The tax imposed by this section on the sale of a motorboat as
27 defined in section 37-1204 shall be the liability of the purchaser. The
28 tax shall be collected by the county treasurer at the time the purchaser
29 makes application for the registration of the motorboat. At the time of
30 the sale of a motorboat, the seller shall (A) state on the sales invoice
31 the dollar amount of the tax imposed under this section and (B) furnish

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

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

30 (k)(i) The tax imposed by this section on the sale of an all-terrain
31 vehicle as defined in section 60-103 or a utility-type vehicle as defined

1 in section 60-135.01 shall be the liability of the purchaser. The tax
2 shall be collected by the county treasurer or by an approved licensed
3 dealer participating in the electronic dealer services system pursuant to
4 section 60-1507 at the time the purchaser makes application for the
5 certificate of title for the all-terrain vehicle or utility-type vehicle.
6 At the time of the sale of an all-terrain vehicle or a utility-type
7 vehicle, the seller shall (A) state on the sales invoice the dollar
8 amount of the tax imposed under this section and (B) furnish to the
9 purchaser a certified statement of the transaction, in such form as the
10 Tax Commissioner prescribes, setting forth as a minimum the total sales
11 price, the allowance for any trade-in, and the difference between the
12 two. The sales tax due shall be computed on the difference between the
13 total sales price and the allowance for any trade-in as disclosed by such
14 certified statement. Any seller who willfully understates the amount upon
15 which the sales tax is due shall be subject to a penalty of one thousand
16 dollars. A copy of such certified statement shall also be furnished to
17 the Tax Commissioner. Any seller who fails or refuses to furnish such
18 certified statement shall be guilty of a misdemeanor and shall, upon
19 conviction thereof, be punished by a fine of not less than twenty-five
20 dollars nor more than one hundred dollars. If the purchaser does not
21 obtain a certificate of title for such all-terrain vehicle or utility-
22 type vehicle within thirty days of the purchase thereof, the tax imposed
23 by this section shall immediately thereafter be paid by the purchaser to
24 the county treasurer. If the tax is not paid on or before the thirtieth
25 day after its purchase, the county treasurer shall also collect from the
26 purchaser interest from the thirtieth day through the date of payment and
27 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The
28 county treasurer shall report and remit the tax so collected to the Tax
29 Commissioner by the fifteenth day of the following month. The county
30 treasurer, for his or her collection fee, shall deduct and withhold for
31 the use of the county general fund, from all amounts required to be

1 collected under this subsection, the collection fee permitted to be
2 deducted by any retailer collecting the sales tax. The collection fee
3 shall be forfeited if the county treasurer violates any rule or
4 regulation pertaining to the collection of the use tax.

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

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

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

28 (2) A use tax is hereby imposed on the storage, use, or other
29 consumption in this state of property purchased, leased, or rented from
30 any retailer and on any transaction the gross receipts of which are
31 subject to tax under subsection (1) of this section on or after June 1,

1 1967, for storage, use, or other consumption in this state at the rate
2 set as provided in subsection (1) of this section on the sales price of
3 the property or, in the case of leases or rentals, of the lease or rental
4 prices.

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

20 (b) Every retailer engaged in business in this state and selling,
21 leasing, or renting property for storage, use, or other consumption in
22 this state shall, at the time of making any sale, collect any tax which
23 may be due from the purchaser and shall give to the purchaser, upon
24 request, a receipt therefor in the manner and form prescribed by the Tax
25 Commissioner.

26 (c) The Tax Commissioner, in order to facilitate the proper
27 administration of the use tax, may designate such person or persons as he
28 or she may deem necessary to be use tax collectors and delegate to such
29 persons such authority as is necessary to collect any use tax which is
30 due and payable to the State of Nebraska. The Tax Commissioner may
31 require of all persons so designated a surety bond in favor of the State

1 of Nebraska to insure against any misappropriation of state funds so
2 collected. The Tax Commissioner may require any tax official, city,
3 county, or state, to collect the use tax on behalf of the state. All
4 persons designated to or required to collect the use tax shall account
5 for such collections in the manner prescribed by the Tax Commissioner.
6 Nothing in this subdivision shall be so construed as to prevent the Tax
7 Commissioner or his or her employees from collecting any use taxes due
8 and payable to the State of Nebraska.

9 (d) All persons designated to collect the use tax and all persons
10 required to collect the use tax shall forward the total of such
11 collections to the Tax Commissioner at such time and in such manner as
12 the Tax Commissioner may prescribe. For all use taxes collected prior to
13 October 1, 2002, such collectors of the use tax shall deduct and withhold
14 from the amount of taxes collected two and one-half percent of the first
15 three thousand dollars remitted each month and one-half of one percent of
16 all amounts in excess of three thousand dollars remitted each month as
17 reimbursement for the cost of collecting the tax. For use taxes collected
18 on and after October 1, 2002, such collectors of the use tax shall deduct
19 and withhold from the amount of taxes collected two and one-half percent
20 of the first three thousand dollars remitted each month as reimbursement
21 for the cost of collecting the tax. Any such deduction shall be forfeited
22 to the State of Nebraska if such collector violates any rule, regulation,
23 or directive of the Tax Commissioner.

24 (e) For the purpose of the proper administration of the Nebraska
25 Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
26 presumed that property sold, leased, or rented by any person for delivery
27 in this state is sold, leased, or rented for storage, use, or other
28 consumption in this state until the contrary is established. The burden
29 of proving the contrary is upon the person who purchases, leases, or
30 rents the property.

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

1 Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
2 of property to an advertising agency which purchases the property as an
3 agent for a disclosed or undisclosed principal, the advertising agency is
4 and remains liable for the sales and use tax on the purchase the same as
5 if the principal had made the purchase directly.

6 Sec. 21. Original section 77-2703, Revised Statutes Supplement,
7 2019, is repealed.