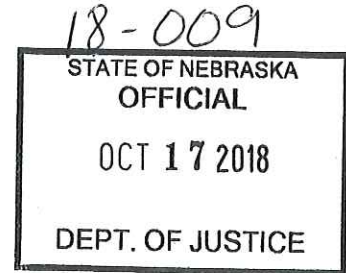




STATE OF NEBRASKA  
**Office of the Attorney General**

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**DOUGLAS J. PETERSON**  
ATTORNEY GENERAL



**SUBJECT:** Interpretation of the Phrase "An Officer of a State Police Agency of Another State" in Neb. Rev. Stat. § 60-146 (Cum. Supp. 2016), *amended by 2018 Neb. Laws LB 909, § 24.*

**REQUESTED BY:** Senator Kate Bolz  
Nebraska Legislature

**WRITTEN BY:** Douglas J. Peterson, Attorney General  
Laura A. Nigro, Assistant Attorney General

### INTRODUCTION

You have requested an opinion from this office asking whether the term "officer of a state police agency of another state" in Neb. Rev. Stat. § 60-146 (Cum. Supp. 2016), *amended by 2018 Neb. Laws LB 909, § 24*, refers to only active officers of a statewide law enforcement agency. Depending on our response, you are considering amendatory legislation. For the reasons set forth below, we conclude that "an officer of a state police agency of another state" means only law enforcement officers working within a state police agency of a state other than Nebraska.

### DISCUSSION

Neb. Rev. Stat. § 60-146 addresses obtaining certificates of title for vehicles. Section § 60-146 requires that an application for a certificate of title include a statement of identification inspection, unless an exception applies. Neb. Rev. Stat. 60-146(3) specifically addresses who can conduct an identification inspection for in-state and out-of-state vehicles. Section 60-146(3) provides:

The statement that an identification inspection has been conducted shall be furnished by the county sheriff of any county or by any other holder of a certificate of training issued pursuant to section 60-183,<sup>1</sup> shall be in a format as determined by the department, and shall expire ninety days after the date of the inspection. The county treasurer shall accept a certificate of inspection, approved by the superintendent, from an officer of a state police agency of another state unless an inspection is required under section 60-174.<sup>2</sup>

As you point out in your letter, § 60-146 provides different inspection rules for in-state and out-of-state vehicles. In-state vehicles may be inspected by a county sheriff or a holder of a certificate of training issued by the Nebraska State Patrol ["Patrol"] pursuant to § 60-183. Out-of-state vehicles can only be inspected by an officer of a state police agency of the state from which the vehicle originates.

"In construing a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense." *Piska v. Nebraska Dep't of Social Services*, 252 Neb. 589, 594, 567 N.W.2d 544, 547 (1997). "[A]n appellate court must look to the statute's purpose and give to the statute a reasonable construction which best achieves that purpose, rather than a construction which would defeat it." *Henery v. City of Omaha*, 263 Neb. 700, 705, 641 N.W.2d 644, 648 (2002). "Statutory language is to be given its plain and ordinary meaning in the absence of anything indicating to the contrary." *PSB Credit Services, Inc. v. Rich*, 251 Neb. 474, 477, 558 N.W.2d 295, 297 (1997).

Applying these rules of statutory interpretation, the language of § 60-146 is plain and unambiguous. "State police" is defined as "[t]he department or agency of a state government empowered to maintain order, as by investigating crimes, and making arrests." Black's Law Dictionary (10<sup>th</sup> ed. 2014). Thus, the phrase "an officer of a state police agency of another state" plainly means a person serving as an officer of a state police agency in a state other than Nebraska.<sup>3</sup>

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<sup>1</sup> "No person shall conduct an inspection unless he or she is the holder of a current certificate of training issued by the patrol. The certificate of training shall be issued upon completion of a course of instruction, approved by the patrol, in the identification of stolen and altered vehicles. The superintendent may require an individual to take such additional training as he or she deems necessary to maintain a current certificate of training." Neb. Rev. Stat. § 60-183 (2010).

<sup>2</sup> Neb. Rev. Stat. § 60-174 (Cum. Supp. 2018) applies to salvage titles.

<sup>3</sup> This is consistent with instructions published by the Department of Motor Vehicles ["DMV"] advising identification inspections for out-of-state vehicles are to be performed by "the State Police in the state where the vehicle is located...." See <https://dmv.nebraska.gov/dvr/title/vehicle-inspection>. The DMV's instructions refer to the Patrol's Vehicle Inspection Form (NSP455), which is to be completed "BY STATE LAW ENFORCEMENT OFFICER ONLY," with a certification that the inspector is "an officer of a STATE POLICE AGENCY employed by the STATE of \_\_\_\_\_." (accessible at

You ask us to consider whether “an officer of a state police agency of another state” could be interpreted more broadly to include non-state police officers or persons that are licensed to conduct inspections by a state police agency. You note that, under § 60-146, in-state vehicles can have an identification inspection conducted by a holder of a certificate of training issued pursuant to § 60-183. As stated previously however, § 60-146 lays out different processes for in-state and out-of-state vehicles.

“The legal principle of *expressio unius est exclusio alterius* (the expression of one thing is the exclusion of the others) recognizes the general principle of statutory construction that an expressed object of a statute’s operation excludes the statute’s operation on all other objects unmentioned by the statute.” *Pfizer Inc. v. Lancaster Cty. Bd. of Equal.*, 260 Neb. 265, 272, 616 N.W.2d 326, 335 (2000). See also *A & D Technical Supply Co. v. Nebraska Dep’t of Revenue*, 259 Neb. 24, 31, 607 N.W.2d 857, 863 (2000). “[W]here a statute or ordinance enumerates the things upon which it is to operate, or forbids certain things, it is to be construed as excluding from its effect all those not expressly mentioned, unless the legislative body has plainly indicated a contrary purpose or intention.” *Nebraska City Ed. Ass’n v. School Dist. of Nebraska City, in Otoe Cty.*, 201 Neb. 303, 306, 267 N.W.2d 530, 532 (1978) (citing *Starman v. Shirley*, 162 Neb. 613, 76 N.W.2d 749 (1956)).

Neb. Rev. Stat. § 60-146 states that out-of-state vehicles must be inspected by “an officer of a state police agency of another state.” Under § 60-146, the conduct of identification inspections by persons holding a certificate of training is limited to holders of certificates issued by the Patrol and applies only to the inspection of in-state vehicles. The Legislature clearly chose to have different processes apply to inspections of in-state and out-of-state vehicles. The Legislature could have made one process apply to all vehicles. It chose not to do so.

### CONCLUSION

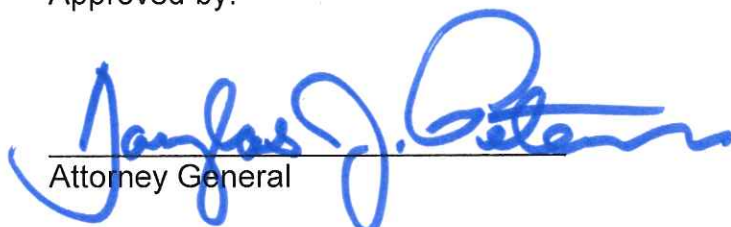
Based on the above discussion, it is our opinion that under § 60-146, an “officer of a state police agency of another state” does not include any law enforcement officer other than one employed by a state police agency of a state other than Nebraska. Further, it also does not permit non-state police officers or persons licensed to conduct inspections by another state’s police agency to conduct out-of-state identification inspections.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General

  
Laura A. Nigro  
Assistant Attorney General

Approved by:

  
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Attorney General

pc Patrick J. O'Donnell  
Clerk of the Nebraska Legislature