

AMENDMENTS TO LB 497

Introduced by Transportation and Telecommunications.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 60-498.02, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           60-498.02 (1) At the expiration of thirty days after the  
6 date of arrest as described in subsection (2) of section 60-6,197  
7 or if after a hearing pursuant to section 60-498.01 the director  
8 finds that the operator's license should be revoked, the director  
9 shall (a) revoke the operator's license of a person arrested for  
10 refusal to submit to a chemical test of blood, breath, or urine  
11 as required by section 60-6,197 for a period of one year and  
12 (b) revoke the operator's license of a person who submits to a  
13 chemical test pursuant to such section which discloses the presence  
14 of a concentration of alcohol specified in section 60-6,196 for a  
15 period of ninety days unless the person's driving record abstract  
16 maintained in the department's computerized records shows one or  
17 more prior administrative license revocations on which final orders  
18 have been issued during the immediately preceding twelve-year  
19 period at the time the order of revocation is issued, in which case  
20 the period of revocation shall be one year. Except as otherwise  
21 provided in section 60-6,211.05, a new operator's license shall  
22 not be issued to such person until the period of revocation has  
23 elapsed. If the person subject to the revocation is a nonresident

1 of this state, the director shall revoke only the nonresident's  
2 operating privilege as defined in section 60-474 of such person and  
3 shall immediately forward the operator's license and a statement of  
4 the order of revocation to the person's state of residence.

5 (2) At the expiration of thirty days after an order of  
6 revocation is entered under subsection (1) of this section, any  
7 person whose operator's license has been administratively revoked  
8 for a period of ninety days for submitting to a chemical test  
9 pursuant to section 60-6,197 which disclosed the presence of a  
10 concentration of alcohol in violation of section 60-6,196 may make  
11 application to the director for issuance of an employment driving  
12 permit pursuant to section 60-4,130.

13 (3) (a) At the expiration of thirty days after an order  
14 of administrative license revocation for ninety days is entered  
15 under subsection (1) of this section, any person who submitted to  
16 a chemical test pursuant to section 60-6,197 which disclosed the  
17 presence of a concentration of alcohol in violation of section  
18 60-6,196 is eligible for an order to allow application for an  
19 ignition interlock permit to operate a motor vehicle equipped with  
20 an ignition interlock device pursuant to section 60-6,211.05 upon  
21 presentation of sufficient evidence to the Department of Motor  
22 Vehicles that such a device is installed.

23 (b) At the expiration of sixty days after an order of  
24 administrative license revocation for one year is entered under  
25 subsection (1) of this section, any person who submitted to  
26 a chemical test pursuant to section 60-6,197 which disclosed  
27 the presence of a concentration of alcohol in violation of

1 section 60-6,196 is eligible for an order to allow application  
2 for an ignition interlock permit in order to operate a motor  
3 vehicle equipped with an ignition interlock device pursuant to  
4 section 60-6,211.05 upon presentation of sufficient evidence to the  
5 Department of Motor Vehicles that such a device is installed.

6 (c) A person operating a motor vehicle pursuant to this  
7 subsection shall only operate the motor vehicle to and from his  
8 or her residence, ~~to~~ his or her place of employment, his or  
9 her school, ~~or an alcohol treatment program,~~ required visits with  
10 his or her probation officer, or an ignition interlock service  
11 facility. Such permit shall indicate for which purposes the permit  
12 may be used. All permits issued pursuant to this subsection shall  
13 indicate that the permit is not valid for the operation of any  
14 commercial motor vehicle.

15 (4) No person shall be eligible for an employment driving  
16 permit or an ignition interlock permit during any period of time  
17 during which his or her operator's license is subject to an  
18 administrative revocation order for refusal to submit to a chemical  
19 test of blood, breath, or urine as required by section 60-6,197.

20 (5) A person may have his or her eligibility for a  
21 license reinstated upon payment of a reinstatement fee as required  
22 by section 60-694.01.

23 (6) (a) A person whose operator's license is subject to  
24 revocation pursuant to subsection (3) of section 60-498.01 shall  
25 have all proceedings dismissed or his or her operator's license  
26 immediately reinstated without payment of the reinstatement fee  
27 upon receipt of suitable evidence by the director that:

1           (i) Within the thirty-day period following the date  
2 of arrest, the prosecuting attorney responsible for the matter  
3 declined to file a complaint alleging a violation of section  
4 60-6,196 and notified the director by first-class mail or facsimile  
5 transmission of such decision and the director received such notice  
6 within such period or the notice was postmarked within such period;  
7 or

8           (ii) The defendant, after trial, was found not guilty  
9 of violating section 60-6,196 or such charge was dismissed on the  
10 merits by the court.

11           (b) The director shall adopt and promulgate rules and  
12 regulations establishing standards for the presentation of suitable  
13 evidence of compliance with subdivision (a) of this subsection.

14           (c) If a charge is filed for a violation of section  
15 60-6,196 pursuant to an arrest for which all proceedings were  
16 dismissed under this subsection, the prosecuting attorney shall  
17 notify the director by first-class mail or facsimile transmission  
18 of the filing of such charge and the director may reinstate an  
19 administrative license revocation under this section as of the  
20 date that the director receives notification of the filing of the  
21 charge, except that a revocation shall not be reinstated if it was  
22 dismissed pursuant to section 60-498.01.

23           Sec. 2. Section 60-4,118.06, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25           60-4,118.06 (1) Upon receipt by the director of (a)  
26 a certified copy of a court order issued pursuant to section  
27 60-6,211.05, a certified copy of an order for installation of an

1 ignition interlock device and issuance of an ignition interlock  
2 permit pursuant to subdivision (1), (2), or ~~(2)~~ (3) of section  
3 60-6,197.03, or a copy of an order from the Board of Pardons  
4 pursuant to section 83-1,127.02, (b) sufficient evidence that  
5 the person has surrendered his or her operator's license to the  
6 Department of Motor Vehicles and installed an approved ignition  
7 interlock device in accordance with such order, and (c) payment of  
8 the fee provided in section 60-4,115, such person may apply for  
9 an ignition interlock permit. A person subject to administrative  
10 license revocation under section 60-498.02 shall be eligible for  
11 an ignition interlock permit as provided in such section. The  
12 director shall issue an ignition interlock permit for the operation  
13 of a motor vehicle equipped with an ignition interlock device.  
14 Any person issued an ignition interlock permit pursuant to a  
15 court order shall only operate the motor vehicle equipped with an  
16 ignition interlock device to and from his or her residence, his or  
17 her place of employment, his or her school, an alcohol treatment  
18 program, required visits with his or her probation officer, or an  
19 ignition interlock service facility. The ~~Such~~ permit shall indicate  
20 for which purposes the permit may be used. All permits issued  
21 pursuant to this subsection shall indicate that the permit is  
22 not valid for the operation of any commercial motor vehicle. ~~The~~  
23 ~~department shall not issue an ignition interlock permit to any~~  
24 ~~person convicted of a second or subsequent violation of section~~  
25 ~~60-6,196 or 60-6,197 until at least one year of the operator's~~  
26 ~~license revocation has elapsed.~~

27 (2) Upon expiration of the revocation period or upon

1 expiration of an order issued by the Board of Pardons pursuant  
2 to section 83-1,127.02, a person may apply to the department  
3 in writing for issuance of an operator's license. Regardless of  
4 whether the license surrendered by such person under subsection  
5 (1) of this section has expired, the person shall apply for a new  
6 operator's license pursuant to the Motor Vehicle Operator's License  
7 Act.

8 (3) A person who operates a motor vehicle in violation  
9 of the purposes for operation indicated on the ignition interlock  
10 permit shall be guilty of a Class II misdemeanor, shall have his or  
11 her ignition interlock permit revoked, and shall serve the balance  
12 of any revocation period without the privilege to operate a motor  
13 vehicle using an ignition interlock device.

14 Sec. 3. Section 60-6,197.01, Revised Statutes Cumulative  
15 Supplement, 2008, is amended to read:

16 60-6,197.01 (1) Upon conviction for a violation described  
17 in section 60-6,197.06 or a second or subsequent violation of  
18 section 60-6,196 or 60-6,197, the court shall impose either of the  
19 following restrictions:

20 (a) (i) The court shall order all motor vehicles owned by  
21 the person so convicted immobilized at the owner's expense for a  
22 period of time not less than five days and not more than eight  
23 months and shall notify the Department of Motor Vehicles of the  
24 period of immobilization. Any immobilized motor vehicle shall be  
25 released to the holder of a bona fide lien on the motor vehicle  
26 executed prior to such immobilization when possession of the motor  
27 vehicle is requested as provided by law by such lienholder for

1 purposes of foreclosing and satisfying such lien. If a person tows  
2 and stores a motor vehicle pursuant to this subdivision at the  
3 direction of a peace officer or the court and has a lien upon such  
4 motor vehicle while it is in his or her possession for reasonable  
5 towing and storage charges, the person towing the vehicle has the  
6 right to retain such motor vehicle until such lien is paid. For  
7 purposes of this subdivision, immobilized or immobilization means  
8 revocation or suspension, at the discretion of the court, of the  
9 registration of such motor vehicle or motor vehicles, including the  
10 license plates; and

11 (ii) (A) Any immobilized motor vehicle shall be released  
12 by the court without any legal or physical restraints to any  
13 registered owner who is not the registered owner convicted of a  
14 second or subsequent violation of section 60-6,196 or 60-6,197  
15 if an affidavit is submitted to the court by such registered  
16 owner stating that the affiant is employed, that the motor vehicle  
17 subject to immobilization is necessary to continue that employment,  
18 that such employment is necessary for the well-being of the  
19 affiant's dependent children or parents, that the affiant will not  
20 authorize the use of the motor vehicle by any person known by the  
21 affiant to have been convicted of a second or subsequent violation  
22 of section 60-6,196 or 60-6,197, that affiant will immediately  
23 report to a local law enforcement agency any unauthorized use of  
24 the motor vehicle by any person known by the affiant to have been  
25 convicted of a second or subsequent conviction of section 60-6,196  
26 or 60-6,197, and that failure to release the motor vehicle would  
27 cause undue hardship to the affiant.

1           (B) A registered owner who executes an affidavit pursuant  
2 to subdivision (1)(a)(ii)(A) of this section which is acted upon  
3 by the court and who fails to immediately report an unauthorized  
4 use of the motor vehicle which is the subject of the affidavit is  
5 guilty of a Class IV misdemeanor and may not file any additional  
6 affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

7           (C) The department shall adopt and promulgate rules and  
8 regulations to implement the provisions of subdivision (1)(a) of  
9 this section; or

10           (b) As an alternative to subdivision (1)(a) of this  
11 section, the court shall order the convicted person, in order to  
12 operate a motor vehicle, to obtain an ignition interlock permit and  
13 install an ignition interlock device on each ~~of the motor vehicles~~  
14 vehicle owned or operated by the convicted person if he or she  
15 was sentenced to an operator's license revocation of at least one  
16 year, ~~and has completed at least one year of such revocation.~~ No  
17 ignition interlock permit may be issued until sufficient evidence  
18 is presented to the department that an ignition interlock device  
19 is installed on each vehicle and that the applicant is eligible  
20 for use of an ignition interlock device. The installation of an  
21 ignition interlock device shall be for a period not less than six  
22 months, ~~commencing upon the end of such year of the operator's~~  
23 ~~license revocation.~~ Notwithstanding any other provision of law,  
24 if the owner was convicted of a second or subsequent violation  
25 of section 60-6,196 or 60-6,197, no ignition interlock device or  
26 ignition interlock permit shall be ordered by any court or state  
27 agency under any circumstances until at least one year of the



1 ~~operator's license revocation shall have elapsed.~~

2           (2) In addition to the restrictions required by  
3 subdivision (1)(b) of this section, the court may require a person  
4 convicted of a second or subsequent violation of section 60-6,196  
5 or 60-6,197 to use a continuous alcohol monitoring device and  
6 abstain from alcohol use for a period of time not to exceed  
7 the maximum term of license revocation ordered by the court. A  
8 continuous alcohol monitoring device shall not be ordered for a  
9 person convicted of a second or subsequent violation unless the  
10 installation of an ignition interlock device is also required.

11           Sec. 4. Section 60-6,197.02, Revised Statutes Cumulative  
12 Supplement, 2008, is amended to read:

13           60-6,197.02 (1) A violation of section 60-6,196 or  
14 60-6,197 shall be punished as provided in section 60-6,197.03.  
15 For purposes of sentencing under section 60-6,197.03:

16           (a) Prior conviction means a conviction for a violation  
17 committed within the twelve-year period prior to the offense for  
18 which the sentence is being imposed as follows:

19           (i) For a violation of section 60-6,196:

20           (A) Any conviction for a violation of section 60-6,196;

21           (B) Any conviction for a violation of a city or village  
22 ordinance enacted in conformance with section 60-6,196;

23           (C) Any conviction under a law of another state if, at  
24 the time of the conviction under the law of such other state,  
25 the offense for which the person was convicted would have been a  
26 violation of section 60-6,196; or

27           (D) Any conviction for a violation of section 60-6,198;

1 or

2 (ii) For a violation of section 60-6,197:

3 (A) Any conviction for a violation of section 60-6,197;

4 (B) Any conviction for a violation of a city or village  
5 ordinance enacted in conformance with section 60-6,197; or

6 (C) Any conviction under a law of another state if, at  
7 the time of the conviction under the law of such other state,  
8 the offense for which the person was convicted would have been a  
9 violation of section 60-6,197;

10 (b) Prior conviction includes any conviction under  
11 section 60-6,196, 60-6,197, or 60-6,198, or any city or village  
12 ordinance enacted in conformance with any of such sections, as  
13 such sections or city or village ordinances existed at the time of  
14 such conviction regardless of subsequent amendments to any of such  
15 sections or city or village ordinances; and

16 (c) Twelve-year period means the period computed from the  
17 date of the prior offense to the date of the offense which resulted  
18 in the conviction for which the sentence is being imposed.

19 (2) In any case charging a violation of section 60-6,196  
20 or 60-6,197, the prosecutor or investigating agency shall use due  
21 diligence to obtain the person's driving record from the Department  
22 of Motor Vehicles and the person's driving record from other  
23 states where he or she is known to have resided within the last  
24 twelve years. The prosecutor shall certify to the court, prior  
25 to sentencing, that such action has been taken. The prosecutor  
26 shall present as evidence for purposes of sentence enhancement a  
27 court-certified copy or an authenticated copy of a prior conviction

1 in another state. The court-certified or authenticated copy shall  
2 be prima facie evidence of such prior conviction.

3 (3) For each conviction for a violation of section  
4 60-6,196 or 60-6,197, the court shall, as part of the judgment of  
5 conviction, make a finding on the record as to the number of the  
6 convicted person's prior convictions. The convicted person shall  
7 be given the opportunity to review the record of his or her prior  
8 convictions, bring mitigating facts to the attention of the court  
9 prior to sentencing, and make objections on the record regarding  
10 the validity of such prior convictions.

11 (4) A person arrested of a violation of section 60-6,196  
12 or 60-6,197 before the effective date of this act, but sentenced  
13 pursuant to section 60-6,197.03 for such violation on or after the  
14 effective date of this act, shall be sentenced according to the  
15 provisions of section 60-6,197.03 in effect on the date of arrest.

16 Sec. 5. Section 60-6,197.03, Revised Statutes Cumulative  
17 Supplement, 2008, is amended to read:

18 60-6,197.03 Any person convicted of a violation of  
19 section 60-6,196 or 60-6,197 shall be punished as follows:

20 (1) Except as provided in subdivision (2) of this  
21 section, if such person has not had a prior conviction, such person  
22 shall be guilty of a Class W misdemeanor, and the court shall,  
23 as part of the judgment of conviction, order that the operator's  
24 license of such person be revoked or impounded for a period of six  
25 months from the date ordered by the court. If the court orders the  
26 person's operator's license impounded, the court shall also order  
27 that the person shall not operate a motor vehicle for a period

1 of six months and shall not order the installation of an ignition  
2 interlock device or an ignition interlock permit. If the court  
3 orders the person's operator's license revoked, the revocation  
4 period shall be for six months. The revocation order shall require  
5 that the person not drive for a period of thirty days, after which  
6 the court may order that and the court shall order that after  
7 ~~thirty days of no driving,~~ the person may apply for an ignition  
8 interlock permit for the remainder of the revocation period and  
9 shall have an ignition interlock device installed on any motor  
10 vehicle he or she operates during the remainder of the revocation  
11 period. Such revocation or impoundment shall be administered upon  
12 sentencing, upon final judgment of any appeal or review, or upon  
13 the date that any probation is revoked.

14 If the court places such person on probation or suspends  
15 the sentence for any reason, the court shall, as one of the  
16 conditions of probation or sentence suspension, order that the  
17 operator's license of such person be revoked for a period of  
18 sixty days from the date ordered by the court. The court may  
19 order that during the period of revocation the person apply  
20 for unless otherwise authorized by an order for an ignition  
21 interlock permit and the installation of an ignition interlock  
22 device issued pursuant to section 60-6,211.05. Such and such  
23 order of probation or sentence suspension shall also include, as  
24 one of its conditions, the payment of a four-hundred-dollar fine;

25 (2) If such person has not had a prior conviction  
26 and, as part of the current violation, had a concentration of  
27 fifteen-hundredths of one gram or more by weight of alcohol per

1 one hundred milliliters of his or her blood or fifteen-hundredths  
2 of one gram or more by weight of alcohol per two hundred ten  
3 liters of his or her breath, such person shall be guilty of a  
4 Class W misdemeanor, and the court shall, as part of the judgment  
5 of conviction, revoke the operator's license of such person for  
6 a period of one year from the date ordered by the court. The  
7 revocation order shall require that the person not drive for a  
8 period of sixty days, after which the court may order that and  
9 shall order that after sixty days of no driving, the person  
10 may apply for an ignition interlock permit for the remainder  
11 of the revocation period and ~~shall~~ have an ignition interlock  
12 device installed on any motor vehicle he or she operates during  
13 the remainder of the revocation period. Such revocation shall be  
14 administered upon sentencing, upon final judgment of any appeal or  
15 review, or upon the date that any probation is revoked.

16 If the court places such person on probation or suspends  
17 the sentence for any reason, the court shall, as one of the  
18 conditions of probation or sentence suspension, order that the  
19 operator's license of such person be revoked for a period of one  
20 year from the date ordered by the court. The court may order  
21 that during the period of revocation the person apply unless  
22 otherwise authorized by an order for an ignition interlock permit  
23 and installation of an ignition interlock device issued pursuant  
24 to section 60-6,211.05. If the court orders that the person apply  
25 for an ignition interlock permit, the court shall also order  
26 that the person submit to a mandatory assessment by a certified  
27 substance abuse professional regarding whether the person has an

1 alcohol abuse problem and submit to alcohol abuse counseling if  
2 such certified substance abuse professional determines that such  
3 counseling is appropriate. Such ~~7~~ ~~and such~~ order of probation or  
4 sentence suspension shall also include, as conditions, the payment  
5 of a five-hundred-dollar fine and either confinement in the city or  
6 county jail for two days or the imposition of not less than one  
7 hundred twenty hours of community service;

8 (3) Except as provided in subdivision (5) of this  
9 section, if such person has had one prior conviction, such person  
10 shall be guilty of a Class W misdemeanor, and the court shall,  
11 as part of the judgment of conviction, order that the operator's  
12 license of such person be revoked for a period of one year from  
13 the date ordered by the court. The revocation order shall require  
14 that the person not drive for a period of sixty days, after  
15 which the court may order that the person apply for an ignition  
16 interlock permit for the remainder of the revocation period and  
17 have an ignition interlock device installed on any motor vehicle  
18 he or she owns or operates during the remainder of the revocation  
19 period. and shall issue an order pursuant to section 60-6,197.01.  
20 Such ~~orders~~ revocation shall be administered upon sentencing, upon  
21 final judgment of any appeal or review, or upon the date that any  
22 probation is revoked.

23 If the court places such person on probation or suspends  
24 the sentence for any reason, the court shall, as one of the  
25 conditions of probation or sentence suspension, order that the  
26 operator's license of such person be revoked for a period of one  
27 year from the date ordered by the court. The revocation order

1 shall require that the person not drive for a period of forty-five  
2 days, after which the court may order that during the period of  
3 revocation the person apply for unless otherwise authorized by  
4 ~~an order for~~ an ignition interlock permit and installation of an  
5 ignition interlock device issued pursuant to section 60-6,211.05  
6 and shall issue an order pursuant to section 60-6,197.01. If  
7 the court orders that the person apply for an ignition interlock  
8 permit, the court shall also order that the person submit to a  
9 mandatory assessment by a certified substance abuse professional  
10 regarding whether the person has an alcohol abuse problem and  
11 submit to alcohol abuse counseling if such certified substance  
12 abuse professional determines that such counseling is appropriate.  
13 Such ~~and such~~ order of probation or sentence suspension shall  
14 also include, as conditions, the payment of a five-hundred-dollar  
15 fine and either confinement in the city or county jail for ten  
16 days or the imposition of not less than two hundred forty hours of  
17 community service;

18 (4) Except as provided in subdivision (6) of this  
19 section, if such person has had two prior convictions, such person  
20 shall be guilty of a Class W misdemeanor, and the court shall,  
21 as part of the judgment of conviction, order that the operator's  
22 license of such person be revoked for a period of fifteen years  
23 from the date ordered by the court and shall issue an order  
24 pursuant to section 60-6,197.01. Such orders shall be administered  
25 upon sentencing, upon final judgment of any appeal or review, or  
26 upon the date that any probation is revoked.

27 If the court places such person on probation or suspends

1 the sentence for any reason, the court shall, as one of the  
2 conditions of probation or sentence suspension, order that the  
3 operator's license of such person be revoked for a period of at  
4 least two years but not more than fifteen years from the date  
5 ordered by the court. The revocation order shall require that the  
6 person not drive for a period of forty-five days, after which the  
7 court may order that during the period of revocation the person  
8 apply for unless otherwise authorized by an order for an ignition  
9 interlock permit and installation of an ignition interlock device  
10 issued pursuant to section 60-6,211.05 and shall issue an order  
11 pursuant to section 60-6,197.01. Such ~~and such~~ order of probation  
12 or sentence suspension shall also include, as conditions, the  
13 payment of a six-hundred-dollar fine and confinement in the city or  
14 county jail for thirty days;

15 (5) If such person has had one prior conviction  
16 and, as part of the current violation, had a concentration of  
17 fifteen-hundredths of one gram or more by weight of alcohol per  
18 one hundred milliliters of his or her blood or fifteen-hundredths  
19 of one gram or more by weight of alcohol per two hundred ten  
20 liters of his or her breath or refused to submit to a test as  
21 required under section 60-6,197, such person shall be guilty of a  
22 Class I misdemeanor, and the court shall, as part of the judgment  
23 of conviction, revoke the operator's license of such person for  
24 a period of at least one year but not more than fifteen years  
25 from the date ordered by the court and shall issue an order  
26 pursuant to section 60-6,197.01. Such revocation and order shall be  
27 administered upon sentencing, upon final judgment of any appeal or



1 review, or upon the date that any probation is revoked. The court  
2 shall also sentence such person to serve at least ninety days'  
3 imprisonment in the city or county jail or an adult correctional  
4 facility.

5           If the court places such person on probation or suspends  
6 the sentence for any reason, the court shall, as one of the  
7 conditions of probation or sentence suspension, order that the  
8 operator's license of such person be revoked for a period of at  
9 least one year but not more than fifteen years from the date  
10 ordered by the court. The revocation order shall require that the  
11 person not drive for a period of forty-five days, after which the  
12 court may order that during the period of revocation the person  
13 apply for unless otherwise authorized by an order for an ignition  
14 interlock permit and installation of an ignition interlock device  
15 issued pursuant to section 60-6,211.05 and shall issue an order  
16 pursuant to section 60-6,197.01. If the court orders that the  
17 person apply for an ignition interlock permit, the court shall  
18 also order that the person submit to a mandatory assessment by a  
19 certified substance abuse professional regarding whether the person  
20 has an alcohol abuse problem and submit to alcohol abuse counseling  
21 if such certified substance abuse professional determines that such  
22 counseling is appropriate. Such ~~7~~ and such order of probation or  
23 sentence suspension shall also include, as conditions, the payment  
24 of a one-thousand-dollar fine and confinement in the city or county  
25 jail for thirty days;

26           (6) If such person has had two prior convictions  
27 and, as part of the current violation, had a concentration of

1 fifteen-hundredths of one gram or more by weight of alcohol per one  
2 hundred milliliters of his or her blood or fifteen-hundredths of  
3 one gram or more by weight of alcohol per two hundred ten liters  
4 of his or her breath or refused to submit to a test as required  
5 under section 60-6,197, such person shall be guilty of a Class IIIA  
6 felony, and the court shall, as part of the judgment of conviction,  
7 revoke the operator's license of such person for a period of  
8 fifteen years from the date ordered by the court and shall issue  
9 an order pursuant to section 60-6,197.01. Such revocation and order  
10 shall be administered upon sentencing, upon final judgment of any  
11 appeal or review, or upon the date that any probation is revoked.  
12 The court shall also sentence such person to serve at least one  
13 hundred eighty days' imprisonment in the city or county jail or an  
14 adult correctional facility.

15           If the court places such person on probation or suspends  
16 the sentence for any reason, the court shall, as one of the  
17 conditions of probation or sentence suspension, order that the  
18 operator's license of such person be revoked for a period of at  
19 least five years but not more than fifteen years from the date  
20 ordered by the court. The revocation order shall require that the  
21 person not drive for a period of forty-five days, after which the  
22 court may order that during the period of revocation the person  
23 apply for unless otherwise authorized by an order for an ignition  
24 interlock permit and installation of an ignition interlock device  
25 issued pursuant to section 60-6,211.05 and shall issue an order  
26 pursuant to section 60-6,197.01. If the court orders that the  
27 person apply for an ignition interlock permit, the court shall

1 also order that the person submit to a mandatory assessment by a  
2 certified substance abuse professional regarding whether the person  
3 has an alcohol abuse problem and submit to alcohol abuse counseling  
4 if such certified substance abuse professional determines that such  
5 counseling is appropriate. Such ~~7~~ ~~and such~~ order of probation or  
6 sentence suspension shall also include, as conditions, the payment  
7 of a one-thousand-dollar fine and confinement in the city or county  
8 jail for sixty days;

9 (7) Except as provided in subdivision (8) of this  
10 section, if such person has had three prior convictions, such  
11 person shall be guilty of a Class IIIA felony, and the court shall,  
12 as part of the judgment of conviction, order that the operator's  
13 license of such person be revoked for a period of fifteen years  
14 from the date ordered by the court and shall issue an order  
15 pursuant to section 60-6,197.01. Such orders shall be administered  
16 upon sentencing, upon final judgment of any appeal or review, or  
17 upon the date that any probation is revoked. The court shall also  
18 sentence such person to serve at least one hundred eighty days'  
19 imprisonment in the city or county jail or an adult correctional  
20 facility.

21 If the court places such person on probation or suspends  
22 the sentence for any reason, the court shall, as one of the  
23 conditions of probation or sentence suspension, order that the  
24 operator's license of such person be revoked for a period of  
25 fifteen years from the date ordered by the court. The revocation  
26 order shall require that the person not drive for a period of  
27 forty-five days, after which the court may order that during

1 the period of revocation the person apply for unless otherwise  
2 authorized by an order for an ignition interlock permit and  
3 installation of an ignition interlock device issued pursuant to  
4 section 60-6,211.05 and shall issue an order pursuant to section  
5 60-6,197.01. Such ~~and such~~ order of probation or sentence  
6 suspension shall also include, as conditions, the payment of a  
7 one-thousand-dollar fine and confinement in the city or county jail  
8 for ninety days;

9 (8) If such person has had three prior convictions  
10 and, as part of the current violation, had a concentration of  
11 fifteen-hundredths of one gram or more by weight of alcohol per one  
12 hundred milliliters of his or her blood or fifteen-hundredths of  
13 one gram or more by weight of alcohol per two hundred ten liters  
14 of his or her breath or refused to submit to a test as required  
15 under section 60-6,197, such person shall be guilty of a Class III  
16 felony, and the court shall, as part of the judgment of conviction,  
17 revoke the operator's license of such person for a period of  
18 fifteen years from the date ordered by the court and shall issue  
19 an order pursuant to section 60-6,197.01. Such revocation and order  
20 shall be administered upon sentencing, upon final judgment of any  
21 appeal or review, or upon the date that any probation is revoked.

22 If the court places such person on probation or suspends  
23 the sentence for any reason, the court shall, as one of the  
24 conditions of probation or sentence suspension, order that the  
25 operator's license of such person be revoked for a period of  
26 fifteen years from the date ordered by the court. The revocation  
27 order shall require that the person not drive for a period of

1 forty-five days, after which the court may order that during  
2 the period of revocation the person apply for unless otherwise  
3 authorized by an order for an ignition interlock permit and  
4 installation of an ignition interlock device issued pursuant  
5 to section 60-6,211.05 and shall issue an order pursuant to  
6 section 60-6,197.01. If the court orders that the person apply  
7 for an ignition interlock permit, the court shall also order  
8 that the person submit to a mandatory assessment by a certified  
9 substance abuse professional regarding whether the person has an  
10 alcohol abuse problem and submit to alcohol abuse counseling if  
11 such certified substance abuse professional determines that such  
12 counseling is appropriate. Such ~~7~~ and such order of probation or  
13 sentence suspension shall also include, as conditions, the payment  
14 of a one-thousand-dollar fine and confinement in the city or county  
15 jail for one hundred twenty days;

16 (9) Except as provided in subdivision (10) of this  
17 section, if such person has had four or more prior convictions,  
18 such person shall be guilty of a Class III felony, and the court  
19 shall, as part of the judgment of conviction, order that the  
20 operator's license of such person be revoked for a period of  
21 fifteen years from the date ordered by the court and shall issue  
22 an order pursuant to section 60-6,197.01. Such orders shall be  
23 administered upon sentencing, upon final judgment of any appeal or  
24 review, or upon the date that any probation is revoked.

25 If the court places such person on probation or suspends  
26 the sentence for any reason, the court shall, as one of the  
27 conditions of probation or sentence suspension, order that the

1 operator's license of such person be revoked for a period of  
2 fifteen years from the date ordered by the court. The revocation  
3 order shall require that the person not drive for a period of  
4 forty-five days, after which the court may order that during  
5 the period of revocation the person apply for unless otherwise  
6 authorized by an order for an ignition interlock permit and  
7 installation of an ignition interlock device issued pursuant to  
8 section 60-6,211.05 and shall issue an order pursuant to section  
9 60-6,197.01. Such <sup>7</sup> ~~and such~~ order of probation or sentence  
10 suspension shall also include, as conditions, the payment of a  
11 one-thousand-dollar fine and confinement in the city or county jail  
12 for one hundred eighty days; and

13 (10) If such person has had four or more prior  
14 convictions and, as part of the current violation, had a  
15 concentration of fifteen-hundredths of one gram or more by weight  
16 of alcohol per one hundred milliliters of his or her blood or  
17 fifteen-hundredths of one gram or more by weight of alcohol per  
18 two hundred ten liters of his or her breath or refused to submit  
19 to a test as required under section 60-6,197, such person shall  
20 be guilty of a Class II felony and the court shall, as part of  
21 the judgment of conviction, revoke the operator's license of such  
22 person for a period of fifteen years from the date ordered by the  
23 court and shall issue an order pursuant to section 60-6,197.01.  
24 Such revocation and order shall be administered upon sentencing,  
25 upon final judgment of any appeal or review, or upon the date that  
26 any probation is revoked.

27 If the court places such person on probation or suspends

1 the sentence for any reason, the court shall, as one of the  
2 conditions of probation or sentence suspension, order that the  
3 operator's license of such person be revoked for a period of  
4 fifteen years from the date ordered by the court. The revocation  
5 order shall require that the person not drive for a period of  
6 forty-five days, after which the court may order that during  
7 the period of revocation the person apply for unless otherwise  
8 authorized by an order for an ignition interlock permit and  
9 installation of an ignition interlock device issued pursuant  
10 to section 60-6,211.05 and shall issue an order pursuant to  
11 section 60-6,197.01. If the court orders that the person apply  
12 for an ignition interlock permit, the court shall also order  
13 that the person submit to a mandatory assessment by a certified  
14 substance abuse professional regarding whether the person has an  
15 alcohol abuse problem and submit to alcohol abuse counseling if  
16 such certified substance abuse professional determines that such  
17 counseling is appropriate. Such ~~7~~ and such order of probation or  
18 sentence suspension shall also include, as conditions, the payment  
19 of a one-thousand-dollar fine and confinement in the city or county  
20 jail for one hundred eighty days.

21 Sec. 6. Section 60-6,197.06, Revised Statutes Cumulative  
22 Supplement, 2008, is amended to read:

23 60-6,197.06 (1) Unless otherwise provided by law pursuant  
24 to an ignition interlock permit, any ~~Any~~ person operating a motor  
25 vehicle on the highways or streets of this state while his or her  
26 operator's license has been revoked pursuant to section 28-306,  
27 section 60-698, subdivision (4), (5), (6), (7), (8), (9), or

1 (10) of section 60-6,197.03<sub>1</sub> or section 60-6,198, or pursuant to  
2 subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision  
3 (4)(c) or (4)(d) of section 60-6,197 as such subdivisions existed  
4 prior to July 16, 2004, shall be guilty of a Class IV felony,  
5 and the court shall, as part of the judgment of conviction, revoke  
6 the operator's license of such person for a period of fifteen  
7 years from the date ordered by the court and shall issue an order  
8 pursuant to section 60-6,197.01. Such revocation and order shall be  
9 administered upon sentencing, upon final judgment of any appeal or  
10 review, or upon the date that any probation is revoked.

11 (2) If such person has had a conviction under this  
12 section or under subsection (6) of section 60-6,196 or subsection  
13 (7) of section 60-6,197, as such subsections existed prior to July  
14 16, 2004, prior to the date of the current conviction under this  
15 section, such person shall be guilty of a Class III felony, and  
16 the court shall, as part of the judgment of conviction, revoke  
17 the operator's license of such person for a period of fifteen  
18 years from the date ordered by the court and shall issue an order  
19 pursuant to section 60-6,197.01. Such revocation and order shall be  
20 administered upon sentencing, upon final judgment of any appeal or  
21 review, or upon the date that any probation is revoked.

22 Sec. 7. Section 60-6,211.05, Revised Statutes Cumulative  
23 Supplement, 2008, is amended to read:

24 60-6,211.05 (1)(a) If an order of probation is granted  
25 under section 60-6,196 or 60-6,197, as such sections existed  
26 prior to July 16, 2004, or section 60-6,196 or 60-6,197 and  
27 sections 60-6,197.02 and 60-6,197.03, as such sections existed on



1 or after July 16, 2004, the court may order that the defendant  
2 ~~to~~ install an ignition interlock device of a type approved by  
3 the Director of Motor Vehicles on each motor vehicle operated  
4 by the defendant during the period of probation. Upon sufficient  
5 evidence of installation, the defendant may apply to the director  
6 for an ignition interlock permit pursuant to section 60-4,118.06.  
7 The device shall, without tampering or the intervention of another  
8 person, prevent the defendant from operating the motor vehicle  
9 when the defendant has an alcohol concentration greater than  
10 three-hundredths of one gram or more by weight of alcohol per one  
11 hundred milliliters of his or her blood or three-hundredths of one  
12 gram or more by weight of alcohol per two hundred ten liters of his  
13 or her breath. the levels prescribed in section 60-6,196.

14 (b) If the court orders an ignition interlock permit  
15 and installation of an ignition interlock device as part of the  
16 judgment of conviction pursuant to subdivision (1), ~~or~~ (2), or (3)  
17 of section 60-6,197.03, the device shall be of a type approved  
18 by the director and shall be installed on each motor vehicle  
19 operated by the defendant. The device shall, without tampering  
20 or the intervention of another person, prevent the defendant from  
21 operating the motor vehicle when the defendant has an alcohol  
22 concentration greater than three-hundredths of one gram or more by  
23 weight of alcohol per one hundred milliliters of his or her blood  
24 or three-hundredths of one gram or more by weight of alcohol per  
25 two hundred ten liters of his or her breath. the levels prescribed  
26 in section 60-6,196.

27 (2) If the court orders installation of an ignition

1 interlock device and issuance of an ignition interlock permit  
2 pursuant to subsection (1) of this section, the court may also  
3 order the use of a continuous alcohol monitoring device and  
4 abstention from alcohol use at all times. The device shall, without  
5 tampering or the intervention of another person, test and record  
6 the alcohol consumption level of the defendant on a periodic basis  
7 and transmit such information to probation authorities.

8 (3) Any order issued by the court pursuant to this  
9 section shall not take effect until the defendant is eligible  
10 to operate a motor vehicle pursuant to subsection (3) of section  
11 60-498.02.

12 ~~(4)~~ (4) (a) If the court orders an ignition interlock  
13 device or the Board of Pardons orders an ignition interlock device  
14 under section 83-1,127.02, the court or the Board of Pardons shall  
15 order the ~~Department of Motor Vehicles to issue to the defendant~~  
16 to apply for an ignition interlock permit as provided in section  
17 60-4,118.06 which indicates that the defendant is only allowed to  
18 operate a motor vehicle equipped with an ignition interlock device.

19 (b) Such court order shall remain in effect for a period  
20 of time as determined by the court not to exceed the maximum  
21 term of revocation which the court could have imposed according  
22 to the nature of the violation and shall allow operation of an  
23 ignition-interlock-equipped motor vehicle only to and from the  
24 defendant's residence, ~~to the defendant's place of employment,~~  
25 the defendant's school, or an alcohol treatment program, required  
26 visits with his or her probation officer, or an ignition interlock  
27 service facility.

1           (c) Such Board of Pardons order shall remain in effect  
2 for a period of time not to exceed any period of revocation the  
3 applicant is subject to at the time the application for a ~~license~~  
4 ~~reinstatement~~ reprieve is made.

5           (5) A person who tampers with or circumvents an ignition  
6 interlock device installed under a court order while the order is  
7 in effect, ~~or~~ who operates a motor vehicle which is not equipped  
8 with an ignition interlock device in violation of a court order  
9 made pursuant to this section, or who otherwise operates a motor  
10 vehicle equipped with an ignition interlock device in violation of  
11 the requirements of the court order under which the device was  
12 installed shall be guilty of a Class II misdemeanor.

13           (6) Any person restricted to operating a motor vehicle  
14 equipped with an ignition interlock device, pursuant to a Board of  
15 Pardons order, who operates upon the highways of this state a motor  
16 vehicle without such device or if the device has been disabled,  
17 bypassed, or altered in any way, shall be punished as provided in  
18 subsection (3) of section 83-1,127.02.

19           (7) If a person ordered to use a continuous alcohol  
20 monitoring device and abstain from alcohol use pursuant to a court  
21 order as provided in subsection (2) of this section violates the  
22 provisions of such court order by removing, tampering with, or  
23 otherwise bypassing the continuous alcohol monitoring device or  
24 by consuming alcohol while required to use such device, he or  
25 she shall have his or her ignition interlock permit revoked and  
26 be unable to apply for reinstatement for the duration of the  
27 revocation period imposed by the court.

1           (8) The director shall adopt and promulgate rules and  
2 regulations ~~to approve~~ regarding the approval of ignition interlock  
3 devices, and the means of installation of the installing ignition  
4 interlock devices, and the means of administering the ignition  
5 interlock permit program.

6           (9) The costs incurred in order to comply with the  
7 ignition interlock requirements of this section shall be paid by  
8 the person complying with an order for an ignition interlock permit  
9 and installation of an ignition interlock device, ~~pursuant to~~  
10 ~~section 60-6,211.05 or 83-1,127.02 unless the court or the Board of~~  
11 ~~Pardons has determined the person to be indigent.~~

12           (10) (a) An ignition interlock service facility shall  
13 notify the appropriate district probation office, if the order is  
14 made pursuant to subdivision (1) (a) of this section, or notify  
15 the appropriate court if the order is made pursuant to subdivision  
16 (1) (b) of this section, of any evidence of tampering with or  
17 circumvention of an ignition interlock device, or any attempts to  
18 do so, when the facility becomes aware of such evidence.

19           (b) If a district probation office receives evidence of  
20 tampering with or circumvention of an ignition interlock device, or  
21 any attempts to do so, from an ignition interlock service facility,  
22 the district probation office shall notify the appropriate court of  
23 such violation. The court shall immediately schedule an evidentiary  
24 hearing to be held within fourteen days after receiving such  
25 evidence, either from the district probation office or an ignition  
26 interlock service facility, and the court shall cause notice of  
27 the hearing to be given to the person operating a motor vehicle

1 pursuant to an order under subsection (1) of this section. If  
2 the person who is the subject of such evidence does not appear  
3 at the hearing and show cause why the order made pursuant to  
4 subsection (1) of this section should remain in effect, the court  
5 shall rescind the original order. Nothing in this subsection shall  
6 apply to an order made by the Board of Pardons pursuant to section  
7 83-1,127.02.

8 (11) Notwithstanding any other provision of law, the  
9 costs associated with the installation, maintenance, and removal  
10 of a court-ordered ignition interlock device by the Office of  
11 Probation Administration shall not be construed so as to create  
12 an order of probation when an order for the installation of an  
13 ignition interlock device and ignition interlock permit was made  
14 pursuant to subdivision (1)(b) of section 60-6,211.05 as part of a  
15 conviction.

16 Sec. 8. Section 60-6,211.10, Revised Statutes Cumulative  
17 Supplement, 2008, is amended to read:

18 60-6,211.10 The Ignition Interlock Device Fund is  
19 created. ~~The Office of Probation Administration~~ Department of Roads  
20 shall use the money in the fund ~~for the costs of installing and~~  
21 ~~removing and one-half of the cost of maintaining an ignition~~  
22 ~~interlock device for an indigent defendant. The Office of Probation~~  
23 ~~Administration shall use no more than five percent of the fund~~  
24 ~~revenue in each fiscal year for purposes of administering the~~  
25 ~~fund.~~ through its highway safety program towards the reduction  
26 of alcohol-related and drug-related motor vehicle crashes and  
27 for public education and awareness of the dangers and penalties

1 associated with driving under the influence of alcohol or drugs.

2 Any money in the fund available for investment shall be invested  
3 by the state investment officer pursuant to the Nebraska Capital  
4 Expansion Act and the Nebraska State Funds Investment Act.

5           Sec. 9. Original sections 60-498.02, 60-4,118.06,  
6 60-6,197.01, 60-6,197.02, 60-6,197.03, 60-6,197.06, 60-6,211.05,  
7 and 60-6,211.10, Revised Statutes Cumulative Supplement, 2008, are  
8 repealed.

9           Sec. 10. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.