

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 148

Introduced by Pirsch, 4; Howard, 9; Nordquist, 7.

Read first time January 09, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to motor vehicle homicide; to amend sections
2 28-306 and 28-394, Reissue Revised Statutes of Nebraska;
3 to change penalty provisions; and to repeal the original
4 sections.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-306, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-306 (1) A person who causes the death of another
4 unintentionally while engaged in the operation of a motor vehicle
5 in violation of the law of the State of Nebraska or in violation of
6 any city or village ordinance commits motor vehicle homicide.

7 (2) Except as provided in subsection (3) of this section,
8 motor vehicle homicide is a Class I misdemeanor.

9 (3) (a) If the proximate cause of the death of another is
10 the operation of a motor vehicle in violation of section 60-6,213
11 or 60-6,214, motor vehicle homicide is a Class IIIA felony. The
12 court shall, as part of the judgment of conviction, order the
13 person not to drive any motor vehicle for any purpose for a period
14 of at least one year and not more than fifteen years after the date
15 ordered by the court and shall order that the operator's license of
16 such person be revoked for the same period.

17 (b) If the proximate cause of the death of another is
18 the operation of a motor vehicle in violation of section 60-6,196
19 or 60-6,197.06, motor vehicle homicide is a Class III felony. The
20 court shall, as part of the judgment of conviction, order the
21 person not to drive any motor vehicle for any purpose for a period
22 of at least one year and not more than fifteen years and shall
23 order that the operator's license of such person be revoked for the
24 same period.

25 (c) If the proximate cause of the death of another is

1 the operation of a motor vehicle in violation of section 60-6,196
2 or 60-6,197.06, motor vehicle homicide is a Class II felony if
3 the defendant has a prior conviction for a violation of section
4 60-6,196 or 60-6,197.06, under a city or village ordinance enacted
5 in conformance with section 60-6,196, or under a law of another
6 state if, at the time of the conviction under the law of such other
7 state, the offense for which the defendant was convicted would have
8 been a violation of section 60-6,196. The court shall, as part of
9 the judgment of conviction, order the person not to drive any motor
10 vehicle for any purpose for a period of fifteen years and shall
11 order that the operator's license of such person be revoked for the
12 same period.

13 (d) An order of the court described in subdivision (b) or
14 (c) of this subsection shall be administered upon sentencing, upon
15 final judgment of any appeal or review, or upon the date that any
16 probation is revoked.

17 Sec. 2. Section 28-394, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-394 (1) A person who causes the death of an unborn
20 child unintentionally while engaged in the operation of a motor
21 vehicle in violation of the law of the State of Nebraska or in
22 violation of any city or village ordinance commits motor vehicle
23 homicide of an unborn child.

24 (2) Except as provided in subsection (3) of this section,
25 motor vehicle homicide of an unborn child is a Class I misdemeanor.

1 (3) (a) If the proximate cause of the death of an unborn
2 child is the operation of a motor vehicle in violation of section
3 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is
4 a Class IV felony and the court shall, as part of the judgment of
5 conviction, order the person not to drive any motor vehicle for
6 any purpose for a period of at least sixty days and not more than
7 fifteen years after the date ordered by the court and shall order
8 that the operator's license of such person be revoked for the same
9 period.

10 (b) Except as provided in subdivision (3) (c) of this
11 section, if the proximate cause of the death of an unborn child is
12 the operation of a motor vehicle in violation of section 60-6,196
13 or 60-6,197.06, motor vehicle homicide of an unborn child is a
14 Class IV felony and the court shall, as part of the judgment of
15 conviction, order the person not to drive any motor vehicle for
16 any purpose for a period of at least sixty days and not more than
17 fifteen years after the date ordered by the court and shall order
18 that the operator's license of such person be revoked for the same
19 period. The revocation shall not run concurrently with any jail
20 term imposed.

21 (c) If the proximate cause of the death of an unborn
22 child is the operation of a motor vehicle in violation of
23 section 60-6,196 or 60-6,197.06 and the defendant has a prior
24 conviction for a violation of section 60-6,196 or a city or
25 village ordinance enacted in conformance with section 60-6,196,

1 motor vehicle homicide of an unborn child is a Class III felony
2 and the court shall, as part of the judgment of conviction, order
3 the person not to drive any motor vehicle for any purpose for
4 a period of at least sixty days and not more than fifteen years
5 after the date ordered by the court and shall order that the
6 operator's license of such person be revoked for the same period.
7 The revocation shall not run concurrently with any jail term
8 imposed.

9 Sec. 3. Original sections 28-306 and 28-394, Reissue
10 Revised Statutes of Nebraska, are repealed.