

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 497

Introduced by Fulton, 29.

Read first time January 20, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to driving under the influence; to amend
2 section 29-2259.01, Reissue Revised Statutes of Nebraska,
3 and sections 60-4,115, 60-4,118.06, 60-6,197.01,
4 60-6,197.03, and 60-6,211.05, Revised Statutes Cumulative
5 Supplement, 2008; to change provisions and change and
6 provide penalties relating to ignition interlock devices;
7 to eliminate a fund; to harmonize provisions; to repeal
8 the original sections; to outright repeal section
9 60-6,211.10, Revised Statutes Cumulative Supplement,
10 2008; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2259.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 29-2259.01 (1) There is hereby created the Probation Cash
4 Fund. All ~~funds~~ money collected pursuant to subdivisions (2)(m)
5 and (2)(o) of section 29-2262 and subdivisions (4)(a) and (4)(b)
6 of section 60-4,115 shall be remitted to the State Treasurer for
7 credit to the fund.

8 (2) Expenditures from the money in the fund collected
9 pursuant to subdivisions (2)(m) and (2)(o) of section 29-2262 shall
10 include, but not be limited to, supplementing any state funds
11 necessary to support the costs of the services for which the funds
12 were money was collected.

13 (3)(a) Expenditures from the money in the fund collected
14 pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115
15 may be used for administrative costs of the Office of Probation
16 Administration as needed.

17 (b) Expenditures from the money in the fund collected
18 pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115 may
19 also be used to provide for the cost of installing, removing,
20 and maintaining an ignition interlock device when the court or
21 Board of Pardons has determined, in accordance with subsection
22 (9) of section 60-6,211.05, that the defendant is incapable of
23 paying such costs, whether such order is made as part of the
24 judgment of conviction or as one of the conditions of probation or
25 sentence suspension under subdivision (1), (2), or (3) of section

1 60-6,197.03. Notwithstanding any other provision of law, the costs
2 associated with the installation, maintenance, and removal of a
3 court-ordered ignition interlock device by the Office of Probation
4 Administration shall not be construed so as to create an order
5 of probation when an order for the installation of an ignition
6 interlock device and ignition interlock permit was made pursuant to
7 subdivision (1)(b) of section 60-6,211.05 as part of a conviction.

8 (4) Any money in the fund available for investment
9 shall be invested by the state investment officer pursuant to
10 the Nebraska Capital Expansion Act and the Nebraska State Funds
11 Investment Act.

12 (5) The State Treasurer shall transfer any money in the
13 Ignition Interlock Fund on the effective date of this act to the
14 Probation Cash Fund.

15 Sec. 2. Section 60-4,115, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 60-4,115 (1) Fees for operators' licenses and state
18 identification cards shall be collected and distributed according
19 to the table in subsection (2) of this section, except for the
20 ignition interlock permit and associated fees as outlined in
21 subsection (4) of this section. County officials shall remit the
22 county portion of the fees collected to the county treasurer for
23 placement in the county general fund. All other fees collected
24 shall be remitted to the State Treasurer for credit to the
25 appropriate fund. The State Treasurer shall transfer an amount

1 equal to three dollars and fifty cents times the number of original
 2 or renewal Class M licenses issued pursuant to section 60-4,127
 3 during the previous year from the Department of Motor Vehicles Cash
 4 Fund to the Motorcycle Safety Education Fund.

5 (2) The fees provided in this subsection in the
 6 following dollar amounts apply for operators' licenses and state
 7 identification cards.

8	9	Department			
		County	of Motor	State	
10	Document	Total	General	Vehicles	General
11		Fee	Fund	Cash Fund	Fund
12	State identification card:				
13	Valid for 1 year or less	5.00	2.75	1.25	1.00
14	Valid for more than 1 year				
15	but not more than 2 years	10.00	2.75	4.00	3.25
16	Valid for more than 2 years				
17	but not more than 3 years	14.00	2.75	5.25	6.00
18	Valid for more than 3 years				
19	but not more than 4 years	19.00	2.75	8.00	8.25
20	Valid for more than 4 years				
21	for person under 21	24.00	2.75	10.25	11.00
22	Valid for 5 years	24.00	3.50	10.25	10.25
23	Duplicate or replacement	11.00	2.75	6.00	2.25
24	Class O or M operator's license:				

LB 497		LB 497			
1	Valid for 1 year or less	5.00	2.75	1.25	1.00
2	Valid for more than 1 year				
3	but not more than 2 years	10.00	2.75	4.00	3.25
4	Valid for more than 2 years				
5	but not more than 3 years	14.00	2.75	5.25	6.00
6	Valid for more than 3 years				
7	but not more than 4 years	19.00	2.75	8.00	8.25
8	Valid for 5 years	24.00	3.50	10.25	10.25
9	Bioptic or telescopic lens restriction:				
10	Valid for 1 year or less	5.00	0	5.00	0
11	Valid for more than 1 year				
12	but not more than 2 years	10.00	2.75	4.00	3.25
13	Duplicate or replacement	11.00	2.75	6.00	2.25
14	Add, change, or remove class,				
15	endorsement, or restriction	5.00	0	5.00	0
16	Provisional operator's permit:				
17	Original	15.00	2.75	12.25	0
18	Bioptic or telescopic lens restriction:				
19	Valid for 1 year or less	5.00	0	5.00	0
20	Valid for more than 1 year				
21	but not more than 2 years	15.00	2.75	12.25	0
22	Duplicate or replacement	11.00	2.75	6.00	2.25
23	Add, change, or remove class,				
24	endorsement, or restriction	5.00	0	5.00	0
25	LPD-learner's permit:				

LB 497		LB 497			
1	Original	8.00	.25	5.00	2.75
2	Duplicate or replacement	11.00	2.75	6.00	2.25
3	Add, change, or remove class,				
4	endorsement, or restriction	5.00	0	5.00	0
5	LPE-learner's permit:				
6	Original	8.00	.25	5.00	2.75
7	Duplicate or replacement	11.00	2.75	6.00	2.25
8	Add, change, or remove class,				
9	endorsement, or restriction	5.00	0	5.00	0
10	School permit:				
11	Original	8.00	.25	5.00	2.75
12	Duplicate or replacement	11.00	2.75	6.00	2.25
13	Add, change, or remove class,				
14	endorsement, or restriction	5.00	0	5.00	0
15	Farm permit:				
16	Original or renewal	5.00	.25	0	4.75
17	Duplicate or replacement	5.00	.25	0	4.75
18	Temporary	5.00	.25	0	4.75
19	Add, change, or remove class,				
20	endorsement, or restriction	5.00	0	5.00	0
21	Driving permits:				
22	Employment	45.00	0	5.00	40.00
23	Medical hardship	45.00	0	5.00	40.00
24	Duplicate or replacement	10.00	.25	5.00	4.75
25	Add, change, or remove class,				

LB 497		LB 497			
1	endorsement, or restriction	5.00	0	5.00	0
2	Commercial driver's license:				
3	Valid for 1 year or less	11.00	1.75	5.00	4.25
4	Valid for more than 1 year				
5	but not more than 2 years	22.00	1.75	5.00	15.25
6	Valid for more than 2 years				
7	but not more than 3 years	33.00	1.75	5.00	26.25
8	Valid for more than 3 years				
9	but not more than 4 years	44.00	1.75	5.00	37.25
10	Valid for 5 years	55.00	1.75	5.00	48.25
11	Bioptic or telescopic lens restriction:				
12	Valid for one year or less	11.00	1.75	5.00	4.25
13	Valid for more than 1 year				
14	but not more than 2 years	22.00	1.75	5.00	15.25
15	Duplicate or replacement	11.00	2.75	6.00	2.25
16	Add, change, or remove class,				
17	endorsement, or restriction	10.00	1.75	5.00	3.25
18	LPC-learner's permit:				
19	Original or renewal	10.00	.25	5.00	4.75
20	Duplicate or replacement	10.00	.25	5.00	4.75
21	Add, change, or remove class,				
22	endorsement, or restriction	10.00	.25	5.00	4.75
23	Seasonal permit:				
24	Original or renewal	10.00	.25	5.00	4.75
25	Duplicate or replacement	10.00	.25	5.00	4.75

1	Add, change, or remove class,				
2	endorsement, or restriction	10.00	.25	5.00	4.75
3	School bus permit:				
4	Original or renewal	5.00	0	5.00	0
5	Duplicate or replacement	5.00	0	5.00	0
6	Add, change, or remove class,				
7	endorsement, or restriction	5.00	0	5.00	0

8 (3) If the department issues an operator's license or a
 9 state identification card, the department shall remit the county
 10 portion of the fees to the State Treasurer for credit to the
 11 Department of Motor Vehicles Cash Fund.

12 (4) (a) The fee for an ignition interlock permit shall be
 13 forty-five dollars. Five dollars of the fee shall be remitted to
 14 the State Treasurer for credit to the Department of Motor Vehicles
 15 Cash Fund. Forty dollars of the fee shall be remitted to the State
 16 Treasurer for credit to the ~~Ignition Interlock Device~~ Probation
 17 Cash Fund.

18 (b) The fee for a duplicate or replacement ignition
 19 interlock permit shall be ten dollars. Twenty-five cents of the
 20 fee shall be remitted to the county treasurer for credit to the
 21 county general fund. Five dollars of the fee shall be remitted to
 22 the State Treasurer for credit to the Department of Motor Vehicles
 23 Cash Fund. Four dollars and seventy-five cents of the fee shall
 24 be remitted to the State Treasurer for credit to the ~~Ignition~~

1 ~~Interlock Device~~ Probation Cash Fund.

2 (c) The fee for adding, changing, or removing a class,
3 endorsement, or restriction on an ignition interlock permit shall
4 be five dollars. The fee shall be remitted to the State Treasurer
5 for credit to the Department of Motor Vehicles Cash Fund.

6 (5) This subsection applies beginning on the
7 implementation date designated by the director pursuant to
8 section 60-462.02. The department and its agents may collect an
9 identity security surcharge to cover the cost of security and
10 technology practices used to protect the identity of applicants for
11 and holders of operators' licenses and state identification cards
12 and to reduce identity theft, fraud, and forgery and counterfeiting
13 of such licenses and cards to the maximum extent possible. The
14 surcharge shall be in addition to all other required fees for
15 operators' licenses and state identification cards. The amount of
16 the surcharge shall be determined by the department. The surcharge
17 shall not exceed eight dollars. The surcharge shall be remitted to
18 the State Treasurer for credit to the Department of Motor Vehicles
19 Cash Fund.

20 Sec. 3. Section 60-4,118.06, Revised Statutes Cumulative
21 Supplement, 2008, is amended to read:

22 60-4,118.06 (1) Upon receipt by the director of (a)
23 a certified copy of a court order issued pursuant to section
24 60-6,211.05, a certified copy of an order for installation of an
25 ignition interlock device and issuance of an ignition interlock

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

25 (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 right to operate a motor
13 vehicle using an ignition interlock device.

14 Sec. 4. 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 second or
17 subsequent violation of section 60-6,196 or 60-6,197, the court
18 shall impose either of the following restrictions:

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

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

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

1 convicted of a second or subsequent conviction of section 60-6,196
2 or 60-6,197, and that failure to release the motor vehicle would
3 cause undue hardship to the affiant.

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

10 (C) The department shall adopt and promulgate rules and
11 regulations to implement the provisions of subdivision (1)(a) of
12 this section; or

13 (b) As an alternative to subdivision (1)(a) of this
14 section, the court shall order the convicted person, in order to
15 operate a motor vehicle, to obtain an ignition interlock permit
16 and install an ignition interlock device on each of the motor
17 vehicles owned or operated by the convicted person if he or she
18 was sentenced to an operator's license revocation of at least one
19 year, ~~and has completed at least one year of such revocation.~~ No
20 ignition interlock permit may be issued until sufficient evidence
21 is presented to the department that an ignition interlock device
22 is installed on each vehicle and that the applicant is eligible
23 for use of an ignition interlock device. The installation of an
24 ignition interlock device shall be for a period not less than
25 six months commencing upon the end of such year of the operator's

1 license revocation. ~~Notwithstanding any other provision of law,~~
2 ~~if the owner was convicted of a second or subsequent violation~~
3 ~~of section 60-6,196 or 60-6,197, no ignition interlock device or~~
4 ~~ignition interlock permit shall be ordered by any court or state~~
5 ~~agency under any circumstances until at least one year of the~~
6 ~~operator's license revocation shall have elapsed.~~

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

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
22 person shall be guilty of a Class W misdemeanor, and the court
23 shall, as part of the judgment of conviction, order that the
24 operator's license of such person be revoked or impounded for a
25 period of six months from the date ordered by the court. If the

1 court orders the person's operator's license impounded, the court
2 shall also order that the person shall not operate a motor vehicle
3 for a period of six months and shall not order the installation
4 of an ignition interlock device or an ignition interlock permit.
5 If the court orders the person's operator's license revoked, the
6 revocation period shall be for six months and the court ~~shall~~
7 may order that after thirty days of no driving, the person may
8 apply for an ignition interlock permit for the remainder of the
9 revocation period and shall have an ignition interlock device
10 installed on any motor vehicle he or she operates during the
11 remainder of the revocation period. Such revocation or impoundment
12 shall be administered upon sentencing, upon final judgment of any
13 appeal or review, or upon 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 unless otherwise
19 authorized by an order for an ignition interlock permit and
20 installation of an ignition interlock device issued pursuant to
21 section 60-6,211.05, and such order of probation or sentence
22 suspension shall also include, as one of its conditions, the
23 payment of a four-hundred-dollar fine;

24 (2) If such person has not had a prior conviction
25 and, as part of the current violation, had a concentration of

1 fifteen-hundredths of one gram or more by weight of alcohol per
2 one hundred milliliters of his or her blood or fifteen-hundredths
3 of one gram or more by weight of alcohol per two hundred ten
4 liters of his or her breath, such person shall be guilty of a
5 Class W misdemeanor, and the court shall, as part of the judgment
6 of conviction, revoke the operator's license of such person for
7 a period of one year from the date ordered by the court and
8 shall order that the person undergo a mandatory assessment by a
9 certified substance abuse professional regarding whether the person
10 has an alcohol abuse problem and undergo alcohol abuse counseling
11 if such certified substance abuse professional determines that such
12 counseling is appropriate, and may order that after sixty days
13 of no driving, the person may apply for an ignition interlock
14 permit for the remainder of the revocation period and shall have
15 an ignition interlock device installed on any motor vehicle he
16 or she operates during the remainder of the revocation period.
17 Such revocation shall be administered upon sentencing, upon final
18 judgment of any appeal or review, or upon the date that any
19 probation is revoked.

20 If the court places such person on probation or suspends
21 the sentence for any reason, the court shall, as one of the
22 conditions of probation or sentence suspension, order that the
23 operator's license of such person be revoked for a period of one
24 year from the date ordered by the court unless otherwise authorized
25 by an order for an ignition interlock permit and installation of an

1 ignition interlock device issued pursuant to section 60-6,211.05,
2 and such order of probation or sentence suspension shall also
3 include, as conditions, the payment of a five-hundred-dollar fine
4 and either confinement in the city or county jail for two days
5 or the imposition of not less than one hundred twenty hours of
6 community service;

7 (3) Except as provided in subdivision (5) of this
8 section, if such person has had one prior conviction, such person
9 shall be guilty of a Class W misdemeanor, and the court shall,
10 as part of the judgment of conviction, ~~order that the operator's~~
11 ~~license of such person be revoked for a period of one year from~~
12 ~~the date ordered by the court and shall issue an order pursuant to~~
13 ~~section 60-6,197.01. revoke the operator's license of such person~~
14 ~~for a period of one year from the date ordered by the court and may~~
15 ~~order that after sixty days of no driving, the person may apply for~~
16 ~~an ignition interlock permit for the remainder of the revocation~~
17 ~~period and shall have an ignition interlock device installed on any~~
18 ~~motor vehicle he or she owns or operates during the remainder of~~
19 ~~the revocation period. Such orders revocation~~ shall be administered
20 upon sentencing, upon final judgment of any appeal or review, or
21 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 one

1 year from the date ordered by the court unless otherwise authorized
2 by an order for an ignition interlock permit and installation of
3 an ignition interlock device issued pursuant to section 60-6,211.05
4 and shall issue an order pursuant to section 60-6,197.01, and such
5 order of probation or sentence suspension shall also include, as
6 conditions, the payment of a five-hundred-dollar fine and either
7 confinement in the city or county jail for ten days or the
8 imposition of not less than two hundred forty hours of community
9 service;

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

19 If the court places such person on probation or suspends
20 the sentence for any reason, the court shall, as one of the
21 conditions of probation or sentence suspension, order that the
22 operator's license of such person be revoked for a period of at
23 least two years but not more than fifteen years from the date
24 ordered by the court unless otherwise authorized by an order for an
25 ignition interlock permit and installation of an ignition interlock

1 device issued pursuant to section 60-6,211.05 and shall issue an
2 order pursuant to section 60-6,197.01, and such order of probation
3 or sentence suspension shall also include, as conditions, the
4 payment of a six-hundred-dollar fine and confinement in the city or
5 county jail for thirty days;

6 (5) If such person has had one prior conviction
7 and, as part of the current violation, had a concentration of
8 fifteen-hundredths of one gram or more by weight of alcohol per
9 one hundred milliliters of his or her blood or fifteen-hundredths
10 of one gram or more by weight of alcohol per two hundred ten
11 liters of his or her breath or refused to submit to a test as
12 required under section 60-6,197, such person shall be guilty of a
13 Class I misdemeanor, and the court shall, as part of the judgment
14 of conviction, revoke the operator's license of such person for
15 a period of at least one year but not more than fifteen years
16 from the date ordered by the court and shall issue an order
17 pursuant to section 60-6,197.01. Such revocation and order shall be
18 administered upon sentencing, upon final judgment of any appeal or
19 review, or upon the date that any probation is revoked. The court
20 shall also sentence such person to serve at least ninety days'
21 imprisonment in the city or county jail or an adult correctional
22 facility.

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

1 operator's license of such person be revoked for a period of at
2 least one year but not more than fifteen years from the date
3 ordered by the court unless otherwise authorized by an order for an
4 ignition interlock permit and installation of an ignition interlock
5 device issued pursuant to section 60-6,211.05 and shall issue an
6 order pursuant to section 60-6,197.01, and such order of probation
7 or sentence suspension shall also include, as conditions, the
8 payment of a one-thousand-dollar fine and confinement in the city
9 or county jail for thirty days;

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

1 If the court places such person on probation or suspends
2 the sentence for any reason, the court shall, as one of the
3 conditions of probation or sentence suspension, order that the
4 operator's license of such person be revoked for a period of at
5 least five years but not more than fifteen years from the date
6 ordered by the court unless otherwise authorized by an order for an
7 ignition interlock permit and installation of an ignition interlock
8 device issued pursuant to section 60-6,211.05 and shall issue an
9 order pursuant to section 60-6,197.01, and such order of probation
10 or sentence suspension shall also include, as conditions, the
11 payment of a one-thousand-dollar fine and confinement in the city
12 or county jail for sixty days;

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

25 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 unless otherwise
5 authorized by an order for an ignition interlock permit and
6 installation of an ignition interlock device issued pursuant
7 to section 60-6,211.05 and shall issue an order pursuant to
8 section 60-6,197.01, and such order of probation or sentence
9 suspension shall also include, as conditions, the payment of a
10 one-thousand-dollar fine and confinement in the city or county jail
11 for ninety days;

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

25 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 unless otherwise
5 authorized by an order for an ignition interlock permit and
6 installation of an ignition interlock device issued pursuant
7 to section 60-6,211.05 and shall issue an order pursuant to
8 section 60-6,197.01, and such order of probation or sentence
9 suspension shall also include, as conditions, the payment of a
10 one-thousand-dollar fine and confinement in the city or county jail
11 for one hundred twenty days;

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

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 unless otherwise

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

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

1 fifteen years from the date ordered by the court unless otherwise
2 authorized by an order for an ignition interlock permit and
3 installation of an ignition interlock device issued pursuant
4 to section 60-6,211.05 and shall issue an order pursuant to
5 section 60-6,197.01, 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 one hundred eighty days.

9 Sec. 6. Section 60-6,211.05, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 60-6,211.05 (1)(a) If an order of probation is granted
12 under section 60-6,196 or 60-6,197, as such sections existed prior
13 to July 16, 2004, or section 60-6,196 or 60-6,197 and sections
14 60-6,197.02 and 60-6,197.03, as such sections existed on or after
15 July 16, 2004, the court may order the defendant to apply for
16 an ignition interlock permit and, upon successfully obtaining such
17 permit, install an ignition interlock device of a type approved by
18 the Director of Motor Vehicles on each motor vehicle operated by
19 the defendant during the period of probation. The device shall,
20 without tampering or the intervention of another person, prevent
21 the defendant from operating the motor vehicle when the defendant
22 has an alcohol concentration greater than three-hundredths of one
23 gram or more by weight of alcohol per one hundred milliliters of
24 his or her blood or three-hundredths of one gram or more by weight
25 of alcohol per two hundred ten liters of his or her breath. ~~the~~

1 ~~levels prescribed in section 60-6,196.~~

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

15 (2) If the court orders installation of an ignition
16 interlock device and issuance of an ignition interlock permit
17 pursuant to subsection (1) of this section, the court may also
18 order the use of a continuous alcohol monitoring device and
19 abstention from alcohol use at all times. The device shall, without
20 tampering or the intervention of another person, test and record
21 the alcohol consumption level of the defendant on a periodic basis
22 and transmit such information to probation authorities.

23 (3) Any order issued by the court pursuant to this
24 section shall not take effect until the defendant is eligible
25 to operate a motor vehicle pursuant to subsection (3) of section

1 60-498.02.

2 (4) If the court orders an ignition interlock device or
3 the Board of Pardons orders an ignition interlock device under
4 section 83-1,127.02, the court or the Board of Pardons shall order
5 the Department of Motor Vehicles to issue to the defendant an
6 ignition interlock permit as provided in section 60-4,118.06 which
7 indicates that the defendant is only allowed to operate a motor
8 vehicle equipped with an ignition interlock device. Such court
9 order shall remain in effect for a period of time as determined by
10 the court not to exceed the maximum term of revocation which the
11 court could have imposed according to the nature of the violation
12 and shall allow operation of an ignition-interlock-equipped motor
13 vehicle only from the defendant's residence to the defendant's
14 place of employment, school, or alcohol treatment program or an
15 ignition interlock service facility. Such Board of Pardons order
16 shall remain in effect for a period of time not to exceed any
17 period of revocation the applicant is subject to at the time the
18 application for a license ~~reinstatement~~ reprieve is made.

19 (5) A person who tampers with or circumvents an ignition
20 interlock device installed under a court order while the order is
21 in effect, ~~or~~ who operates a motor vehicle which is not equipped
22 with an ignition interlock device in violation of a court order
23 made pursuant to this section, or who otherwise operates a motor
24 vehicle equipped with an ignition interlock device outside of
25 the requirements of the court order under which the device was

1 installed shall be guilty of a Class II misdemeanor.

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

8 (7) If a person ordered to use a continuous alcohol
9 monitoring device and abstain from alcohol use pursuant to a court
10 order as provided in subsection (2) of this section violates the
11 provisions of such court order by removing, tampering with, or
12 otherwise bypassing the continuous alcohol monitoring device or
13 by consuming alcohol while required to use such device, he or
14 she shall have his or her ignition interlock permit revoked and
15 be unable to apply for reinstatement for the duration of the
16 revocation period imposed by the court.

17 (8) The director shall adopt and promulgate rules and
18 regulations to approve ignition interlock devices and the means of
19 installation of the devices.

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

1 paying for the cost of installation, removal, and maintenance of
2 the ignition interlock device for the period ordered.

3 (10)(a) An ignition interlock service facility shall
4 notify the Office of Probation Administration of any evidence of
5 tampering with or circumvention of an ignition interlock device,
6 or any attempts to do so, when the facility becomes aware of such
7 evidence.

8 (b) If the Office of Probation Administration receives
9 evidence of a violation of a court order made pursuant to
10 subsection (1) of this section from an ignition interlock service
11 facility, the Office of Probation Administration shall notify the
12 appropriate court of such violation. The court shall immediately
13 schedule an evidentiary hearing to be held within fourteen days
14 after receiving such evidence, and the court shall cause notice of
15 the hearing to be given to the person operating a motor vehicle
16 pursuant to an order under subsection (1) of this section. If
17 the person who is the subject of such evidence does not appear
18 at the hearing and show cause why the order made pursuant to
19 subsection (1) of this section should remain in effect, the court
20 shall rescind the original order. Nothing in this subsection shall
21 apply to an order made by the Board of Pardons pursuant to section
22 83-1,127.02.

23 Sec. 7. Original section 29-2259.01, Reissue Revised
24 Statutes of Nebraska, and sections 60-4,115, 60-4,118.06,
25 60-6,197.01, 60-6,197.03, and 60-6,211.05, Revised Statutes

1 Cumulative Supplement, 2008, are repealed.

2 Sec. 8. The following section is outright repealed:

3 Section 60-6,211.10, Revised Statutes Cumulative Supplement, 2008.

4 Sec. 9. Since an emergency exists, this act takes effect

5 when passed and approved according to law.