

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 924**

Introduced by Fischer, 43.

Read first time January 13, 2010

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to driving under the influence; to  
2 amend sections 60-498.02, 60-4,118.06, 60-6,197.01,  
3 60-6,197.03, and 60-6,211.05, Revised Statutes  
4 Supplement, 2009; to change provisions relating to  
5 ignition interlock orders; and to repeal the original  
6 sections.

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

1                   Section 1. Section 60-498.02, Revised Statutes  
2 Supplement, 2009, is amended to read:

3                   60-498.02 (1) At the expiration of thirty days after the  
4 date of arrest as described in subsection (2) of section 60-6,197  
5 or if after a hearing pursuant to section 60-498.01 the director  
6 finds that the operator's license should be revoked, the director  
7 shall (a) revoke the operator's license of a person arrested for  
8 refusal to submit to a chemical test of blood, breath, or urine  
9 as required by section 60-6,197 for a period of one year and  
10 (b) revoke the operator's license of a person who submits to a  
11 chemical test pursuant to such section which discloses the presence  
12 of a concentration of alcohol specified in section 60-6,196 for a  
13 period of ninety days unless the person's driving record abstract  
14 maintained in the department's computerized records shows one or  
15 more prior administrative license revocations on which final orders  
16 have been issued during the immediately preceding twelve-year  
17 period at the time the order of revocation is issued, in which case  
18 the period of revocation shall be one year. Except as otherwise  
19 provided in section 60-6,211.05, a new operator's license shall  
20 not be issued to such person until the period of revocation has  
21 elapsed. If the person subject to the revocation is a nonresident  
22 of this state, the director shall revoke only the nonresident's  
23 operating privilege as defined in section 60-474 of such person and  
24 shall immediately forward the operator's license and a statement of  
25 the order of revocation to the person's state of residence.

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

9           (b) At the expiration of sixty days after an order of  
10 revocation is entered under subdivision (1) (a) of this section, any  
11 person whose operator's license has been administratively revoked  
12 for refusal to submit to a chemical test pursuant to section  
13 60-6,197, may make application to the director for issuance of  
14 an employment driving permit pursuant to section 60-4,130 unless  
15 the person's driving record abstract maintained in the department's  
16 computerized records shows one or more prior administrative license  
17 revocations on which final orders have been issued during the  
18 immediately preceding twelve-year period at the time the order of  
19 revocation is issued.

20           (3) (a) At the expiration of thirty days after an order  
21 of administrative license revocation for ninety days is entered  
22 under subdivision (1) (b) of this section, any person who submitted  
23 to a chemical test pursuant to section 60-6,197 which disclosed  
24 the presence of a concentration of alcohol in violation of section  
25 60-6,196 is eligible for an order to allow application for an

1 ignition interlock permit to operate a motor vehicle equipped with  
2 an ignition interlock device pursuant to section 60-6,211.05 upon  
3 presentation of sufficient evidence to the department that such a  
4 device is installed.

5 (b) At the expiration of sixty days after an order of  
6 administrative license revocation for one year is entered under  
7 subdivision (1)(b) of this section, any person who submitted to  
8 a chemical test pursuant to section 60-6,197 which disclosed  
9 the presence of a concentration of alcohol in violation of  
10 section 60-6,196 is eligible for an order to allow application  
11 for an ignition interlock permit in order to operate a motor  
12 vehicle equipped with an ignition interlock device pursuant to  
13 section 60-6,211.05 upon presentation of sufficient evidence to the  
14 department that such a device is installed.

15 (c) At the expiration of sixty days after an order  
16 of administrative license revocation is entered under subdivision  
17 (1)(a) of this section, any person who refused to submit to a  
18 chemical test pursuant to section 60-6,197 is eligible for an order  
19 to allow application for an ignition interlock permit in order to  
20 operate a motor vehicle equipped with an ignition interlock device  
21 pursuant to section 60-6,211.05 upon presentation of sufficient  
22 evidence to the department that such a device is installed, unless  
23 the person's driving record abstract maintained in the department's  
24 computerized records shows one or more prior administrative license  
25 revocations on which final orders have been issued during the

1 immediately preceding twelve-year period at the time the order of  
2 revocation is issued.

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

12 (4) A person may have his or her eligibility for a  
13 license reinstated upon payment of a reinstatement fee as required  
14 by section 60-694.01.

15 (5) (a) A person whose operator's license is subject to  
16 revocation pursuant to subsection (3) of section 60-498.01 shall  
17 have all proceedings dismissed or his or her operator's license  
18 immediately reinstated without payment of the reinstatement fee  
19 upon receipt of suitable evidence by the director that:

20 (i) Within the thirty-day period following the date  
21 of arrest, the prosecuting attorney responsible for the matter  
22 declined to file a complaint alleging a violation of section  
23 60-6,196 and notified the director by first-class mail or facsimile  
24 transmission of such decision and the director received such notice  
25 within such period or the notice was postmarked within such period;

1 or

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

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

8 (c) If a charge is filed for a violation of section  
9 60-6,196 pursuant to an arrest for which all proceedings were  
10 dismissed under this subsection, the prosecuting attorney shall  
11 notify the director by first-class mail or facsimile transmission  
12 of the filing of such charge and the director may reinstate an  
13 administrative license revocation under this section as of the  
14 date that the director receives notification of the filing of the  
15 charge, except that a revocation shall not be reinstated if it was  
16 dismissed pursuant to section 60-498.01.

17 Sec. 2. Section 60-4,118.06, Revised Statutes Supplement,  
18 2009, is amended to read:

19 60-4,118.06 (1) Upon receipt by the director of (a)  
20 a certified copy of a court order issued pursuant to section  
21 60-6,211.05, a certified copy of an order for installation of an  
22 ignition interlock device and issuance of an ignition interlock  
23 permit pursuant to subdivision (1), (2), or (3) of section  
24 60-6,197.03, or a copy of an order from the Board of Pardons  
25 pursuant to section 83-1,127.02, (b) sufficient evidence that

1 the person has surrendered his or her operator's license to the  
2 Department of Motor Vehicles and installed an approved ignition  
3 interlock device in accordance with such order, and (c) payment of  
4 the fee provided in section 60-4,115, such person may apply for  
5 an ignition interlock permit. A person subject to administrative  
6 license revocation under section 60-498.02 shall be eligible for  
7 an ignition interlock permit as provided in such section. The  
8 director shall issue an ignition interlock permit for the operation  
9 of a motor vehicle equipped with an ignition interlock device.  
10 Any person issued an ignition interlock permit pursuant to a  
11 court order shall only operate the motor vehicle equipped with an  
12 ignition interlock device to and from his or her residence, his or  
13 her place of employment, his or her school, an alcohol treatment  
14 program, ~~required visits with his or her probation officer,~~ or an  
15 ignition interlock service facility. The permit shall indicate for  
16 which purposes the permit may be used. All permits issued pursuant  
17 to this subsection shall indicate that the permit is not valid for  
18 the operation of any commercial motor vehicle.

19 (2) Upon expiration of the revocation period or upon  
20 expiration of an order issued by the Board of Pardons pursuant  
21 to section 83-1,127.02, a person may apply to the department  
22 in writing for issuance of an operator's license. Regardless of  
23 whether the license surrendered by such person under subsection  
24 (1) of this section has expired, the person shall apply for a new  
25 operator's license pursuant to the Motor Vehicle Operator's License

1 Act.

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

8 Sec. 3. Section 60-6,197.01, Revised Statutes Supplement,  
9 2009, is amended to read:

10 60-6,197.01 (1) Upon conviction for a violation described  
11 in section 60-6,197.06 or a second or subsequent violation of  
12 section 60-6,196 or 60-6,197, the court shall impose either of the  
13 following restrictions:

14 (a)(i) The court shall order all motor vehicles owned by  
15 the person so convicted immobilized at the owner's expense for a  
16 period of time not less than five days and not more than eight  
17 months and shall notify the Department of Motor Vehicles of the  
18 period of immobilization. Any immobilized motor vehicle shall be  
19 released to the holder of a bona fide lien on the motor vehicle  
20 executed prior to such immobilization when possession of the motor  
21 vehicle is requested as provided by law by such lienholder for  
22 purposes of foreclosing and satisfying such lien. If a person tows  
23 and stores a motor vehicle pursuant to this subdivision at the  
24 direction of a peace officer or the court and has a lien upon such  
25 motor vehicle while it is in his or her possession for reasonable



1 towing and storage charges, the person towing the vehicle has the  
2 right to retain such motor vehicle until such lien is paid. For  
3 purposes of this subdivision, immobilized or immobilization means  
4 revocation or suspension, at the discretion of the court, of the  
5 registration of such motor vehicle or motor vehicles, including the  
6 license plates; and

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

24 (B) A registered owner who executes an affidavit pursuant  
25 to subdivision (1) (a) (ii) (A) of this section which is acted upon

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

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

8 (b) As an alternative to subdivision (1)(a) of this  
9 section, the court shall order the convicted person, in order to  
10 operate a motor vehicle, to obtain an ignition interlock permit and  
11 install an ignition interlock device on each motor vehicle owned or  
12 operated by the convicted person if he or she was sentenced to an  
13 operator's license revocation of at least one year. If the person's  
14 operator's license has been revoked for at least a one-year period,  
15 after a minimum of a forty-five day no driving period, the person  
16 may operate a motor vehicle with an ignition interlock permit  
17 and an ignition interlock device pursuant to this subsection, and  
18 shall retain the ignition interlock permit and ignition interlock  
19 device for not less than the remainder of a one-year period, or  
20 period of revocation ordered by the court, whichever is longer. No  
21 ignition interlock permit may be issued until sufficient evidence  
22 is presented to the department that an ignition interlock device  
23 is installed on each vehicle and that the applicant is eligible  
24 for use of an ignition interlock device. ~~The installation of an~~  
25 ~~ignition interlock device shall be for a period not less than six~~

1 ~~months.~~

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 60-6,197.03, Revised Statutes Supplement,  
12 2009, is amended to read:

13           60-6,197.03 Any person convicted of a violation of  
14 section 60-6,196 or 60-6,197 shall be punished as follows:

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

1 revocation period shall be for six months. The revocation order  
2 shall require that the person not drive for a period of thirty  
3 days, after which the court may order that the person apply for  
4 an ignition interlock permit for the remainder of the revocation  
5 period and have an ignition interlock device installed on any motor  
6 vehicle he or she operates during the remainder of the revocation  
7 period. Such revocation or impoundment shall be administered upon  
8 sentencing, upon final judgment of any appeal or review, or upon  
9 the date that any probation is revoked.

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

20           (2) If such person has not had a prior conviction  
21 and, as part of the current violation, had a concentration of  
22 fifteen-hundredths of one gram or more by weight of alcohol per  
23 one hundred milliliters of his or her blood or fifteen-hundredths  
24 of one gram or more by weight of alcohol per two hundred ten  
25 liters of his or her breath, such person shall be guilty of a

1 Class W misdemeanor, and the court shall, as part of the judgment  
2 of conviction, revoke the operator's license of such person for  
3 a period of one year from the date ordered by the court. The  
4 revocation order shall require that the person not drive for  
5 a period of sixty days, after which the court may order that  
6 the person apply for an ignition interlock permit pursuant to  
7 subdivision (1)(b) of section 60-6,197.01 for the remainder of the  
8 revocation period and have an ignition interlock device installed  
9 on any motor vehicle he or she operates during the remainder of  
10 the revocation period. Such revocation shall be administered upon  
11 sentencing, upon final judgment of any appeal or review, or upon  
12 the date that any probation is revoked.

13           If the court places such person on probation or suspends  
14 the sentence for any reason, the court shall, as one of the  
15 conditions of probation or sentence suspension, order that the  
16 operator's license of such person be revoked for a period of one  
17 year from the date ordered by the court. The revocation order  
18 shall require that the person not drive for a period of forty-five  
19 days, after which the court may order that the person apply for  
20 an ignition interlock permit pursuant to subdivision (1)(b) of  
21 section 60-6,197.01 for the remainder of the revocation period  
22 and have an ignition interlock device installed on any motor  
23 vehicle he or she operates during the remainder of the revocation  
24 period. Such revocation shall be administered upon sentencing, upon  
25 final judgment of any appeal or review, or upon the date that

1 any probation is revoked. Such order of probation or sentence  
2 suspension shall also include, as conditions, the payment of a  
3 five-hundred-dollar fine and either confinement in the city or  
4 county jail for two days or the imposition of not less than one  
5 hundred twenty hours of community service;

6 (3) Except as provided in subdivision (5) of this  
7 section, if such person has had one prior conviction, such person  
8 shall be guilty of a Class W misdemeanor, and the court shall,  
9 as part of the judgment of conviction, order that the operator's  
10 license of such person be revoked for a period of one year from  
11 the date ordered by the court. The revocation order shall require  
12 that the person not drive for a period of sixty days, after which  
13 the court may order that the person apply for an ignition interlock  
14 permit for the remainder of the revocation period and have an  
15 ignition interlock device installed on any motor vehicle he or  
16 she owns or operates during the remainder of the revocation period  
17 and shall issue an order pursuant to subdivision (1)(b) of section  
18 60-6,197.01. Such revocation shall be administered upon sentencing,  
19 upon final judgment of any appeal or review, or upon the date that  
20 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 one year from the date ordered by the court. The revocation

1 order shall require that the person not drive for a period of  
2 forty-five days, after which the court may order that during the  
3 period of revocation the person apply for an ignition interlock  
4 permit and installation of an ignition interlock device pursuant  
5 to subdivision (1)(b) of section 60-6,211.05 and shall issue an  
6 order pursuant to section 60-6,197.01. Such order of probation or  
7 sentence suspension shall also include, as conditions, the payment  
8 of a five-hundred-dollar fine and either confinement in the city or  
9 county jail for ten days or the imposition of not less than two  
10 hundred forty hours of community service;

11 (4) Except as provided in subdivision (6) of this  
12 section, if such person has had two prior convictions, such person  
13 shall be guilty of a Class W misdemeanor, and the court shall,  
14 as part of the judgment of conviction, order that the operator's  
15 license of such person be revoked for a period of fifteen years  
16 from the date ordered by the court and shall issue an order  
17 pursuant to section 60-6,197.01. Such orders shall be administered  
18 upon sentencing, upon final judgment of any appeal or review, or  
19 upon the date that any 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 at  
24 least two years but not more than fifteen years from the date  
25 ordered by the court. The revocation order shall require that the

1 person not drive for a period of forty-five days, after which the  
2 court may order that during the period of revocation the person  
3 apply for an ignition interlock permit and installation of an  
4 ignition interlock device issued pursuant to section 60-6,211.05  
5 and shall issue an order pursuant to subdivision (1)(b) of section  
6 60-6,197.01. Such order of probation or sentence suspension shall  
7 also include, as conditions, the payment of a six-hundred-dollar  
8 fine and confinement in the city or county jail for thirty days;

9 (5) If such person has had one prior conviction  
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  
12 one hundred milliliters of his or her blood or fifteen-hundredths  
13 of one gram or more by weight of alcohol per two hundred ten  
14 liters of his or her breath or refused to submit to a test as  
15 required under section 60-6,197, such person shall be guilty of a  
16 Class I misdemeanor, and the court shall, as part of the judgment  
17 of conviction, revoke the operator's license of such person for  
18 a period of at least one year but not more than fifteen years  
19 from the date ordered by the court and shall issue an order  
20 pursuant to section 60-6,197.01. Such revocation and order shall be  
21 administered upon sentencing, upon final judgment of any appeal or  
22 review, or upon the date that any probation is revoked. The court  
23 shall also sentence such person to serve at least ninety days'  
24 imprisonment in the city or county jail or an adult correctional  
25 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 one year but not more than fifteen years from the date  
6 ordered by the court. The revocation order shall require that the  
7 person not drive for a period of forty-five days, after which the  
8 court may order that during the period of revocation the person  
9 apply for an ignition interlock permit and installation of an  
10 ignition interlock device issued pursuant to section 60-6,211.05  
11 and shall issue an order pursuant to subdivision (1) (b) of section  
12 60-6,197.01. Such order of probation or sentence suspension shall  
13 also include, as conditions, the payment of a one-thousand-dollar  
14 fine and confinement in the city or county jail for thirty days;

15           (6) If such person has had two prior convictions  
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 one  
18 hundred milliliters of his or her blood or fifteen-hundredths of  
19 one gram or more by weight of alcohol per two hundred ten liters  
20 of his or her breath or refused to submit to a test as required  
21 under section 60-6,197, such person shall be guilty of a Class IIIA  
22 felony, and the court shall, as part of the judgment of conviction,  
23 revoke the operator's license of such person for a period of  
24 fifteen years from the date ordered by the court and shall issue  
25 an order pursuant to section 60-6,197.01. Such revocation and order

1 shall be administered upon sentencing, upon final judgment of any  
2 appeal or review, or upon the date that any probation is revoked.  
3 The court shall also sentence such person to serve at least one  
4 hundred eighty days' imprisonment in the city or county jail or an  
5 adult correctional facility.

6           If the court places such person on probation or suspends  
7 the sentence for any reason, the court shall, as one of the  
8 conditions of probation or sentence suspension, order that the  
9 operator's license of such person be revoked for a period of at  
10 least five years but not more than fifteen years from the date  
11 ordered by the court. The revocation order shall require that the  
12 person not drive for a period of forty-five days, after which the  
13 court may order that during the period of revocation the person  
14 apply for an ignition interlock permit and installation of an  
15 ignition interlock device issued pursuant to section 60-6,211.05  
16 and shall issue an order pursuant to subdivision (1)(b) of section  
17 60-6,197.01. Such order of probation or sentence suspension shall  
18 also include, as conditions, the payment of a one-thousand-dollar  
19 fine and confinement in the city or county jail for sixty days;

20           (7) Except as provided in subdivision (8) of this  
21 section, if such person has had three prior convictions, such  
22 person shall be guilty of a Class IIIA felony, and the court shall,  
23 as part of the judgment of conviction, order that the operator's  
24 license of such person be revoked for a period of fifteen years  
25 from the date ordered by the court and shall issue an order

1 pursuant to section 60-6,197.01. Such orders shall be administered  
2 upon sentencing, upon final judgment of any appeal or review, or  
3 upon the date that any probation is revoked. The court shall also  
4 sentence such person to serve at least one hundred eighty days'  
5 imprisonment in the city or county jail or an adult correctional  
6 facility.

7           If the court places such person on probation or suspends  
8 the sentence for any reason, the court shall, as one of the  
9 conditions of probation or sentence suspension, order that the  
10 operator's license of such person be revoked for a period of  
11 fifteen years from the date ordered by the court. The revocation  
12 order shall require that the person not drive for a period of  
13 forty-five days, after which the court may order that during the  
14 period of revocation the person apply for an ignition interlock  
15 permit and installation of an ignition interlock device issued  
16 pursuant to section 60-6,211.05 and shall issue an order pursuant  
17 to subdivision (1)(b) of section 60-6,197.01. Such order of  
18 probation or sentence suspension shall also include, as conditions,  
19 the payment of a one-thousand-dollar fine and confinement in the  
20 city or county jail for ninety days;

21           (8) If such person has had three prior convictions  
22 and, as part of the current violation, had a concentration of  
23 fifteen-hundredths of one gram or more by weight of alcohol per one  
24 hundred milliliters of his or her blood or fifteen-hundredths of  
25 one gram or more by weight of alcohol per two hundred ten liters

1 of his or her breath or refused to submit to a test as required  
2 under section 60-6,197, such person shall be guilty of a Class III  
3 felony, and the court shall, as part of the judgment of conviction,  
4 revoke the operator's license of such person for a period of  
5 fifteen years from the date ordered by the court and shall issue  
6 an order pursuant to section 60-6,197.01. Such revocation and order  
7 shall be administered upon sentencing, upon final judgment of any  
8 appeal or review, or upon the date that any probation is revoked.

9           If the court places such person on probation or suspends  
10 the sentence for any reason, the court shall, as one of the  
11 conditions of probation or sentence suspension, order that the  
12 operator's license of such person be revoked for a period of  
13 fifteen years from the date ordered by the court. The revocation  
14 order shall require that the person not drive for a period of  
15 forty-five days, after which the court may order that during the  
16 period of revocation the person apply for an ignition interlock  
17 permit and installation of an ignition interlock device issued  
18 pursuant to section 60-6,211.05 and shall issue an order pursuant  
19 to subdivision (1)(b) of section 60-6,197.01. Such order of  
20 probation or sentence suspension shall also include, as conditions,  
21 the payment of a one-thousand-dollar fine and confinement in the  
22 city or county jail for one hundred twenty days;

23           (9) Except as provided in subdivision (10) of this  
24 section, if such person has had four or more prior convictions,  
25 such person shall be guilty of a Class III felony, and the court

1 shall, as part of the judgment of conviction, order that the  
2 operator's license of such person be revoked for a period of  
3 fifteen years from the date ordered by the court and shall issue  
4 an order pursuant to section 60-6,197.01. Such orders shall be  
5 administered upon sentencing, upon final judgment of any appeal or  
6 review, or upon the date that any probation is revoked.

7           If the court places such person on probation or suspends  
8 the sentence for any reason, the court shall, as one of the  
9 conditions of probation or sentence suspension, order that the  
10 operator's license of such person be revoked for a period of  
11 fifteen years from the date ordered by the court. The revocation  
12 order shall require that the person not drive for a period of  
13 forty-five days, after which the court may order that during the  
14 period of revocation the person apply for an ignition interlock  
15 permit and installation of an ignition interlock device issued  
16 pursuant to section 60-6,211.05 and shall issue an order pursuant  
17 to subdivision (1)(b) of section 60-6,197.01. Such order of  
18 probation or sentence suspension shall also include, as conditions,  
19 the payment of a one-thousand-dollar fine and confinement in the  
20 city or county jail for one hundred eighty days; and

21           (10) If such person has had four or more prior  
22 convictions and, as part of the current violation, had a  
23 concentration of fifteen-hundredths of one gram or more by weight  
24 of alcohol per one hundred milliliters of his or her blood or  
25 fifteen-hundredths of one gram or more by weight of alcohol per

1 two hundred ten liters of his or her breath or refused to submit  
 2 to a test as required under section 60-6,197, such person shall  
 3 be guilty of a Class II felony and the court shall, as part of  
 4 the judgment of conviction, revoke the operator's license of such  
 5 person for a period of fifteen years from the date ordered by the  
 6 court and shall issue an order pursuant to section 60-6,197.01.  
 7 Such revocation and order shall be administered upon sentencing,  
 8 upon final judgment of any appeal or review, or upon the date that  
 9 any probation is revoked.

10           If the court places such person on probation or suspends  
 11 the sentence for any reason, the court shall, as one of the  
 12 conditions of probation or sentence suspension, order that the  
 13 operator's license of such person be revoked for a period of  
 14 fifteen years from the date ordered by the court. The revocation  
 15 order shall require that the person not drive for a period of  
 16 forty-five days, after which the court may order that during the  
 17 period of revocation the person apply for an ignition interlock  
 18 permit and installation of an ignition interlock device issued  
 19 pursuant to subdivision (1)(b) of section 60-6,211.05 and shall  
 20 issue an order pursuant to section 60-6,197.01. Such order of  
 21 probation or sentence suspension shall also include, as conditions,  
 22 the payment of a one-thousand-dollar fine and confinement in the  
 23 city or county jail for one hundred eighty days.

24           Sec. 5. Section 60-6,211.05, Revised Statutes Supplement,  
 25 2009, is amended to read:

1           60-6,211.05 (1) (a) If an order ~~of probation~~ is granted  
2 under section 60-6,196 or 60-6,197, as such sections existed  
3 prior to July 16, 2004, or section 60-6,196 or 60-6,197 and  
4 sections 60-6,197.02 and 60-6,197.03, as such sections existed on  
5 or after July 16, 2004, the court may order that the defendant  
6 install an ignition interlock device of a type approved by the  
7 Director of Motor Vehicles on each motor vehicle operated by the  
8 defendant during the period of probation. Upon sufficient evidence  
9 of installation, the defendant may apply to the director for an  
10 ignition interlock permit pursuant to section 60-4,118.06. The  
11 device shall, without tampering or the intervention of another  
12 person, prevent the defendant from operating the motor vehicle  
13 when the defendant has an alcohol concentration greater than  
14 three-hundredths of one gram or more by weight of alcohol per one  
15 hundred milliliters of his or her blood or three-hundredths of one  
16 gram or more by weight of alcohol per two hundred ten liters of his  
17 or her breath.

18           (b) If the court orders an ignition interlock permit  
19 and installation of an ignition interlock device as part of the  
20 judgment of conviction pursuant to ~~subdivision (1), (2), or (3)~~  
21 ~~of~~ section 60-6,197.03, the device shall be of a type approved  
22 by the director and shall be installed on each motor vehicle  
23 operated by the defendant. The device shall, without tampering  
24 or the intervention of another person, prevent the defendant from  
25 operating the motor vehicle when the defendant has an alcohol

1 concentration greater than three-hundredths of one gram or more by  
2 weight of alcohol per one hundred milliliters of his or her blood  
3 or three-hundredths of one gram or more by weight of alcohol per  
4 two hundred ten liters of his or her breath.

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

13 (3) Any order issued by the court pursuant to this  
14 section shall not take effect until the defendant is eligible  
15 to operate a motor vehicle pursuant to subsection (3) of section  
16 60-498.02.

17 (4)(a) If the court orders an ignition interlock device  
18 or the Board of Pardons orders an ignition interlock device under  
19 section 83-1,127.02, the court or the Board of Pardons shall order  
20 the defendant to apply for an ignition interlock permit as provided  
21 in section 60-4,118.06 which indicates that the defendant is only  
22 allowed to operate a motor vehicle equipped with an ignition  
23 interlock device.

24 (b) Such court order shall remain in effect for a period  
25 of time as determined by the court not to exceed the maximum



1 term of revocation which the court could have imposed according  
2 to the nature of the violation and shall allow operation of an  
3 ignition-interlock-equipped motor vehicle only to and from the  
4 defendant's residence, the defendant's place of employment, the  
5 defendant's school, an alcohol treatment program, ~~required visits~~  
6 ~~with his or her probation officer,~~ or an ignition interlock service  
7 facility.

8 (c) Such Board of Pardons order shall remain in effect  
9 for a period of time not to exceed any period of revocation the  
10 applicant is subject to at the time the application for a reprieve  
11 is made.

12 (5) A person who tampers with or circumvents an ignition  
13 interlock device installed under a court order while the order  
14 is in effect, who operates a motor vehicle which is not equipped  
15 with an ignition interlock device in violation of a court order  
16 made pursuant to this section, or who otherwise operates a motor  
17 vehicle equipped with an ignition interlock device in violation of  
18 the requirements of the court order under which the device was  
19 installed shall be guilty of a Class II misdemeanor.

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

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

10           (8) The director shall adopt and promulgate rules and  
11 regulations regarding the approval of ignition interlock devices,  
12 the means of installing ignition interlock devices, and the means  
13 of administering the ignition interlock permit program.

14           (9) The costs incurred in order to comply with the  
15 ignition interlock requirements of this section shall be paid by  
16 the person complying with an order for an ignition interlock permit  
17 and installation of an ignition interlock device unless the court  
18 or the Board of Pardons has determined the person to be incapable  
19 of paying for the cost of installation, removal, or maintenance of  
20 the ignition interlock device in accordance with this subsection.

21           (10)(a) An ignition interlock service facility shall  
22 notify the appropriate district probation office, if the order is  
23 made pursuant to subdivision (1)(a) of this section, or notify  
24 the appropriate court if the order is made pursuant to subdivision  
25 (1)(b) of this section, of any evidence of tampering with or

1 circumvention of an ignition interlock device, or any attempts to  
2 do so, when the facility becomes aware of such evidence.

3 (b) If a district probation office receives evidence of  
4 tampering with or circumvention of an ignition interlock device, or  
5 any attempts to do so, from an ignition interlock service facility,  
6 the district probation office shall notify the appropriate court of  
7 such violation. The court shall immediately schedule an evidentiary  
8 hearing to be held within fourteen days after receiving such  
9 evidence, either from the district probation office or an ignition  
10 interlock service facility, and the court shall cause notice of  
11 the hearing to be given to the person operating a motor vehicle  
12 pursuant to an order under subsection (1) of this section. If  
13 the person who is the subject of such evidence does not appear  
14 at the hearing and show cause why the order made pursuant to  
15 subsection (1) of this section should remain in effect, the court  
16 shall rescind the original order. Nothing in this subsection shall  
17 apply to an order made by the Board of Pardons pursuant to section  
18 83-1,127.02.

19 (11) Notwithstanding any other provision of law, the  
20 costs associated with the installation, maintenance, and removal  
21 of a court-ordered ignition interlock device by the Office of  
22 Probation Administration shall not be construed so as to create  
23 an order of probation when an order for the installation of an  
24 ignition interlock device and ignition interlock permit was made  
25 pursuant to subdivision (1)(b) of this section as part of a

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1 conviction.

2           Sec. 6. Original sections 60-498.02, 60-4,118.06,  
3 60-6,197.01, 60-6,197.03, and 60-6,211.05, Revised Statutes  
4 Supplement, 2009, are repealed.