

AMENDMENTS TO LB 667

Introduced by Flood

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

3           Section 1. Section 28-101, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           28-101 Sections 28-101 to 28-1356 and section 2 of this  
6 act shall be known and may be cited as the Nebraska Criminal Code.

7           Sec. 2. (1) It shall be unlawful for any person to  
8 operate or be in the actual physical control of a motor vehicle  
9 with a person under the age of sixteen years as a passenger:

10           (a) While the person operating or in the actual physical  
11 control of the motor vehicle is under the influence of alcoholic  
12 liquor or any drug;

13           (b) When the person operating or in the actual  
14 physical control of the motor vehicle has a concentration of  
15 eight-hundredths of one gram or more by weight of alcohol per one  
16 hundred milliliters of his or her blood;

17           (c) When the person operating or in the actual  
18 physical control of the motor vehicle has a concentration of  
19 eight-hundredths of one gram or more by weight of alcohol per two  
20 hundred ten liters of his or her breath; or

21           (d) If the person operating or in the actual physical  
22 control of the motor vehicle refuses to submit to a chemical test  
23 or tests when directed to do so by a peace officer pursuant to

1 section 60-6,197.

2 (2) A violation of this section shall be a Class I  
3 misdemeanor.

4 (3) The crime punishable under this section shall be  
5 treated as a separate and distinct offense from any other offense  
6 arising out of acts alleged to have been committed while the person  
7 was in violation of this section.

8 Sec. 3. Section 28-306, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 28-306 (1) A person who causes the death of another  
11 unintentionally while engaged in the operation of a motor vehicle  
12 in violation of the law of the State of Nebraska or in violation of  
13 any city or village ordinance commits motor vehicle homicide.

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

16 (3) (a) If the proximate cause of the death of another is  
17 the operation of a motor vehicle in violation of section 60-6,213  
18 or 60-6,214, motor vehicle homicide is a Class IIIA felony.

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

27 (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 (4) The crime punishable under this section shall be  
18 treated as a separate and distinct offense from any other offense  
19 arising out of acts alleged to have been committed while the person  
20 was in violation of this section.

21 Sec. 4. Section 28-394, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

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

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

3           (3) (a) If the proximate cause of the death of an unborn  
4 child is the operation of a motor vehicle in violation of section  
5 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is  
6 a Class IV felony.

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

18           (c) If the proximate cause of the death of an unborn  
19 child is the operation of a motor vehicle in violation of  
20 section 60-6,196 or 60-6,197.06 and the defendant has a prior  
21 conviction for a violation of section 60-6,196 or a city or  
22 village ordinance enacted in conformance with section 60-6,196,  
23 motor vehicle homicide of an unborn child is a Class III felony  
24 and the court shall, as part of the judgment of conviction, order  
25 the person not to drive any motor vehicle for any purpose for  
26 a period of at least sixty days and not more than fifteen years  
27 after the date ordered by the court and shall order that the

1 operator's license of such person be revoked for the same period.  
2 The revocation shall not run concurrently with any jail term  
3 imposed.

4 (4) The crime punishable under this section shall be  
5 treated as a separate and distinct offense from any other offense  
6 arising out of acts alleged to have been committed while the person  
7 was in violation of this section.

8 Sec. 5. Section 29-215, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 29-215 (1) A law enforcement officer has the power and  
11 authority to enforce the laws of this state and of the political  
12 subdivision which employs the law enforcement officer or otherwise  
13 perform the functions of that office anywhere within his or her  
14 primary jurisdiction.

15 (2) Any law enforcement officer who is within this state,  
16 but beyond his or her primary jurisdiction, has the power and  
17 authority to enforce the laws of this state or any legal ordinance  
18 of any city or incorporated village or otherwise perform the  
19 functions of his or her office, including the authority to arrest  
20 and detain suspects, as if enforcing the laws or performing the  
21 functions within his or her primary jurisdiction in the following  
22 cases:

23 (a) Any such law enforcement officer, if in a fresh  
24 attempt to apprehend a person suspected of committing a felony, may  
25 follow such person into any other jurisdiction in this state and  
26 there arrest and detain such person and return such person to the  
27 law enforcement officer's primary jurisdiction;

1           (b) Any such law enforcement officer, if in a fresh  
2 attempt to apprehend a person suspected of committing a misdemeanor  
3 or a traffic infraction, may follow such person anywhere in an area  
4 within twenty-five miles of the boundaries of the law enforcement  
5 officer's primary jurisdiction and there arrest and detain such  
6 person and return such person to the law enforcement officer's  
7 primary jurisdiction;

8           (c) Any such law enforcement officer shall have such  
9 enforcement and arrest and detention authority when responding to  
10 a call in which a local, state, or federal law enforcement officer  
11 is in need of assistance. A law enforcement officer in need of  
12 assistance shall mean (i) a law enforcement officer whose life is  
13 in danger or (ii) a law enforcement officer who needs assistance in  
14 making an arrest and the suspect (A) will not be apprehended unless  
15 immediately arrested, (B) may cause injury to himself or herself or  
16 others or damage to property unless immediately arrested, or (C)  
17 may destroy or conceal evidence of the commission of a crime; and

18           (d) Any municipality or county may, under the provisions  
19 of the Interlocal Cooperation Act or the Joint Public Agency Act,  
20 enter into a contract with any other municipality or county for law  
21 enforcement services or joint law enforcement services. Under such  
22 an agreement, law enforcement personnel may have such enforcement  
23 authority within the jurisdiction of each of the participating  
24 political subdivisions if provided for in the agreement. Unless  
25 otherwise provided in the agreement, each participating political  
26 subdivision shall provide liability insurance coverage for its own  
27 law enforcement personnel as provided in section 13-1802.

1           (3) When probable cause exists to believe that a person  
2 is operating or in the actual physical control of any motor  
3 vehicle, motorboat, personal watercraft, or aircraft while under  
4 the influence of alcoholic liquor or of any drug or otherwise  
5 in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01,  
6 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01,  
7 or 60-6,211.02, the law enforcement officer has the power and  
8 authority to do any of the following or any combination thereof:

9           (a) Transport such person to a facility outside of the  
10 law enforcement officer's primary jurisdiction for appropriate  
11 chemical testing of the person;

12           (b) Administer outside of the law enforcement officer's  
13 primary jurisdiction any post-arrest test advisement to the person;  
14 or

15           (c) With respect to such person, perform other procedures  
16 or functions outside of the law enforcement officer's primary  
17 jurisdiction which are directly and solely related to enforcing  
18 the laws that concern a person operating or being in the  
19 actual physical control of any motor vehicle, motorboat, personal  
20 watercraft, or aircraft while under the influence of alcoholic  
21 liquor or of any other drug or otherwise in violation of section  
22 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163,  
23 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.

24           (4) For purposes of this section:

25           (a) Law enforcement officer has the same meaning as peace  
26 officer as defined in section 49-801 and also includes conservation  
27 officers of the Game and Parks Commission; and

1           (b) Primary jurisdiction means the geographic area within  
2 the territorial limits of the state or political subdivision which  
3 employs the law enforcement officer.

4           Sec. 6. Section 29-1917, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           29-1917 (1) Except as provided in section 29-1926, at any  
7 time after the filing of an indictment or information in a felony  
8 ~~or Class W misdemeanor~~ prosecution, the prosecuting attorney or the  
9 defendant may request the court to allow the taking of a deposition  
10 of any person other than the defendant who may be a witness in  
11 the trial of the offense. The court may order the taking of the  
12 deposition when it finds the testimony of the witness:

13           (a) May be material or relevant to the issue to be  
14 determined at the trial of the offense; or

15           (b) May be of assistance to the parties in the  
16 preparation of their respective cases.

17           (2) An order granting the taking of a deposition shall  
18 include the time and place for taking such deposition and such  
19 other conditions as the court determines to be just.

20           (3) The proceedings in taking the deposition of a witness  
21 pursuant to this section and returning it to the court shall be  
22 governed in all respects as the taking of depositions in civil  
23 cases.

24           (4) A deposition taken pursuant to this section may  
25 be used at the trial by any party solely for the purpose of  
26 contradicting or impeaching the testimony of the deponent as a  
27 witness.



1           Sec. 7. Section 29-2259.01, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           29-2259.01 (1) There is hereby created the Probation  
4 Cash Fund. All 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 money  
12 was collected.

13           ~~(3)(a) The Office of Probation Administration shall use~~  
14 ~~no more than five percent of the money in the fund collected in~~  
15 ~~each fiscal year pursuant to subdivisions (4)(a) and (4)(b) of~~  
16 ~~section 60-4,115 for administrative costs of the office.~~

17           ~~(b) Expenditures from the money in the fund collected~~  
18 ~~pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115~~  
19 ~~shall also be used to provide for the cost of installing, removing,~~  
20 ~~and maintaining an ignition interlock device in accordance with~~  
21 ~~subsection (9) of section 60-6,211.05. The office shall not be~~  
22 ~~required to pay costs authorized under this subdivision that exceed~~  
23 ~~the amount of funds available for this purpose.~~

24           ~~(4)~~ (3) Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to  
26 the Nebraska Capital Expansion Act and the Nebraska State Funds  
27 Investment Act.

1           ~~(5) The State Treasurer shall transfer any money in the~~  
2 ~~Ignition Interlock Device Fund on May 14, 2009, to the Probation~~  
3 ~~Cash Fund.~~

4           (4) The State Treasurer shall transfer any remaining  
5 money in the fund collected pursuant to subdivisions (4)(a) and  
6 (4)(b) of section 60-4,115 on the operative date of this act to the  
7 Department of Motor Vehicles Ignition Interlock Fund.

8           Sec. 8. Section 37-1201, Revised Statutes Cumulative  
9 Supplement, 2010, is amended to read:

10           37-1201 Sections 37-1201 to 37-12,110 and sections 16,  
11 17, 18, and 19 of this act shall be known and may be cited as the  
12 State Boat Act. It is the policy of this state to promote safety  
13 for persons and property in and connected with the use, operation,  
14 and equipment of vessels and to promote uniformity of laws relating  
15 thereto.

16           Sec. 9. Section 37-1238.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           37-1238.01 No person other than a rescue squad member  
19 actually en route to, at, or returning from any emergency requiring  
20 the services of such member or any law enforcement peace officer  
21 in the performance of his or her official duties shall operate a  
22 vessel equipped with a rotating or flashing red or blue light or  
23 lights upon the waters of this state.

24           Sec. 10. Section 37-1254.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           37-1254.01 (1) No person shall be in the actual physical  
27 control of any motorboat or personal watercraft under propulsion

1 upon the waters of this state:

2 (a) While under the influence of ~~alcohol~~ alcoholic liquor  
3 or of any ~~controlled substance as defined in section 28-401,~~ drug;

4 (b) When such person has a concentration of  
5 eight-hundredths of one gram or more by weight of alcohol  
6 per one hundred milliliters of his or her blood; or

7 (c) When such person has a concentration of  
8 eight-hundredths of one gram or more by weight of alcohol  
9 per two hundred ten liters of his or her breath.

10 ~~(2) Any person who is in the actual physical control of~~  
11 ~~any motorboat under propulsion upon the waters of this state while~~  
12 ~~in a condition described in subsection (1) of this section shall be~~  
13 ~~guilty of a Class II misdemeanor. Upon conviction the court shall,~~  
14 ~~as part of the judgment of conviction, order such person not to be~~  
15 ~~in the physical control of a motorboat under propulsion upon the~~  
16 ~~waters of this state for any purpose for a period of six months~~  
17 ~~from the date of such conviction, except that if the court places~~  
18 ~~such person on probation or suspends the sentence for any reason,~~  
19 ~~the court shall, as one of the conditions of probation or sentence~~  
20 ~~suspension, order such person not to be in the physical control of~~  
21 ~~any motorboat under propulsion upon the waters of this state for~~  
22 ~~any purpose for a period of sixty days from the date of the order.~~

23 ~~(3)~~ (2) Any city or village may enact ordinances  
24 in conformance with this section and section 37-1254.02. Upon  
25 conviction of any person of a violation of such a city or village  
26 ordinance, the provisions of sections 18 and 19 of this act shall  
27 be applicable the same as though it were a violation of this

1 section or section 37-1254.02.

2 (3) Any person who is in the actual physical control  
3 of any motorboat or personal watercraft under propulsion upon the  
4 waters of this state while in a condition described in subsection  
5 (1) of this section shall be guilty of a crime and upon conviction  
6 punished as provided in section 19 of this act.

7 ~~(4) At the discretion of the court, any person convicted~~  
8 ~~of violating this section or violating any city or village~~  
9 ~~ordinance adopted in conformance with this section may be required~~  
10 ~~to attend, at the convicted person's expense, an alcoholism~~  
11 ~~treatment program as a term of probation.~~

12 Sec. 11. Section 37-1254.02, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 37-1254.02 (1) Any person who has in his or her  
15 actual physical control a motorboat or personal watercraft under  
16 propulsion upon the waters of this state shall be deemed to have  
17 given his or her consent to submit to a chemical test or tests  
18 of his or her blood, ~~or~~ breath, or urine for the purpose of  
19 determining the ~~amount of alcohol content~~ concentration of alcohol  
20 or the presence of drugs in such blood, ~~or~~ breath, or urine.

21 (2) Any ~~law enforcement~~ peace officer who has been duly  
22 authorized to make arrests for violations of laws of this state or  
23 ordinances of any city or village may require any person arrested  
24 for any offense arising out of acts alleged to have been committed  
25 while the person was in the actual physical control of a motorboat  
26 or personal watercraft under propulsion upon the waters of this  
27 state under the influence of alcohol or drugs to submit to a

1 chemical test or tests of his or her blood, ~~ex~~ breath, or urine for  
2 the purpose of determining the ~~alcohol content~~ of concentration of  
3 alcohol or the presence of drugs in such blood, ex breath, or urine  
4 when the officer has reasonable grounds to believe that the person  
5 was in the actual physical control of a motorboat or personal  
6 watercraft under propulsion upon the waters of this state while  
7 under the influence of alcohol or drugs in violation of section  
8 37-1254.01. It shall be unlawful for a person to refuse to provide  
9 a sample of his or her blood, breath, or urine after being directed  
10 by a peace officer to submit to a chemical test or tests of his or  
11 her blood or breath pursuant to this section.

12           ~~(3)~~ Any law enforcement officer who has been duly  
13 authorized to make arrests for violations of laws of this state or  
14 ordinances of any city or village may require any person who has  
15 in his or her actual physical control a motorboat under propulsion  
16 upon the waters of this state to submit to a preliminary test of  
17 his or her breath for alcohol content if the officer has reasonable  
18 grounds to believe that such person has alcohol in his or her  
19 body or has committed any violation of this section and section  
20 37-1254.01. Any person who refuses to submit to such preliminary  
21 breath test or whose preliminary breath test results indicate an  
22 alcohol content of eight-hundredths of one gram or more by weight  
23 of alcohol per two hundred ten liters of his or her breath shall  
24 be placed under arrest. Any person who refuses to submit to such  
25 preliminary breath test shall be guilty of a Class III misdemeanor.

26           ~~(4)~~ (3) Any person arrested pursuant to as described in  
27 subsection (2) of this section may, upon the direction of a law

1 ~~enforcement peace officer~~, be required to submit to a chemical  
2 test or tests of his or her blood, ~~or~~ breath, or urine for a  
3 determination of the concentration of alcohol or the presence of  
4 drugs. ~~alcohol content.~~ Any person who refuses to submit to a  
5 chemical blood ~~or~~ breath test required pursuant to this section  
6 shall be guilty of a Class II misdemeanor, and the court shall, as  
7 part of the judgment of conviction, order such person not to be  
8 in the actual physical control of any motorboat under propulsion  
9 upon the waters of this state for any purpose for a period of  
10 six months from the date of such conviction. If the court places  
11 such person on probation or suspends the sentence for any reason,  
12 the court shall, as one of the conditions of probation or sentence  
13 suspension, order such person not to be in the actual physical  
14 control of any motorboat under propulsion upon the waters of this  
15 state for any purpose for a period of sixty days from the date of  
16 the order.

17 (4) Any person involved in a motorboat or personal  
18 watercraft accident in this state may be required to submit to a  
19 chemical test or tests of his or her blood, breath, or urine by any  
20 peace officer if the officer has reasonable grounds to believe that  
21 the person was in the actual physical control of a motorboat or  
22 personal watercraft under propulsion upon the waters of this state  
23 while under the influence of alcoholic liquor or drugs at the time  
24 of the accident.

25 (5) Any person who is required to submit to a preliminary  
26 ~~breath test or to~~ a chemical blood, ~~or~~ breath, or urine test or  
27 tests pursuant to this section shall be advised of the consequences

1 ~~of refusing to submit to such test, that if he or she refuses~~  
2 ~~to submit to such test or tests, he or she could be charged with~~  
3 ~~a separate crime. Failure to provide such advisement shall not~~  
4 ~~affect the admissibility of the chemical test result in any legal~~  
5 ~~proceedings. However, failure to provide such advisement shall~~  
6 ~~negate the state's ability to bring any criminal charges against a~~  
7 ~~refusing party pursuant to this section.~~

8 (6) Any person convicted of a violation of this section  
9 shall be punished as provided in section 19 of this act.

10 (7) Refusal to submit to a chemical blood, breath, or  
11 urine test or tests pursuant to this section shall be admissible  
12 evidence in any action for a violation of section 37-1254.01 or a  
13 city or village ordinance enacted in conformance with such section.

14 Sec. 12. Section 37-1254.03, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 37-1254.03 The ~~law enforcement~~ peace officer who requires  
17 a chemical blood, ~~or~~ breath, or urine test or tests pursuant to  
18 section 37-1254.02 may direct whether the test or tests shall be  
19 of blood, ~~or~~ breath, or urine. When the officer directs that the  
20 test or tests shall be of a person's blood, the person tested shall  
21 be permitted to have a physician of his or her choice evaluate his  
22 or her condition and perform or have performed whatever laboratory  
23 tests such person tested deems appropriate in addition to and  
24 following the test or tests administered at the direction of the  
25 ~~law enforcement~~ peace officer. If the officer refuses to permit  
26 such additional test or tests to be taken, then the original test  
27 or tests shall not be competent as evidence. Upon request the

1 results of the test or tests taken at the direction of the ~~law~~  
2 ~~enforcement~~ peace officer shall be made available to the person  
3 being tested.

4 Sec. 13. Section 37-1254.05, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 37-1254.05 (1) Except as provided in section 37-1254.03,  
7 any test or tests made pursuant to section 37-1254.02, if made  
8 in conformance with the requirements of this section, shall be  
9 competent evidence in any prosecution under a state law or city  
10 or village ordinance regarding the actual physical control of any  
11 motorboat or personal watercraft under propulsion upon the waters  
12 of this state while under the influence of alcohol or drugs or  
13 regarding the actual physical control of any motorboat or personal  
14 watercraft under propulsion upon the waters of this state when the  
15 concentration of alcohol in the blood or breath is in excess of  
16 allowable levels in violation of section 37-1254.01 or a city or  
17 village ordinance.

18 (2) To be considered valid, tests shall have been  
19 performed according to methods approved by the Department of  
20 Health and Human Services and by an individual possessing a valid  
21 permit issued by the department for such purpose. The department  
22 may approve satisfactory techniques or methods and ascertain the  
23 qualifications and competence of individuals to perform such tests  
24 and may issue permits which shall be subject to termination or  
25 revocation at the discretion of the department.

26 (3) The permit fee may be established by rules and  
27 regulations adopted and promulgated by the department, which fee



1 shall not exceed the actual cost of processing the initial permit.  
2 Such fee shall be charged annually to each permitholder. The fees  
3 shall be used to defray the cost of processing and issuing the  
4 permits and other expenses incurred by the department in carrying  
5 out this section. The fee shall be deposited in the state treasury  
6 and credited to the Health and Human Services Cash Fund as a  
7 laboratory service fee.

8 (4) Relevant evidence shall not be excluded in any  
9 prosecution under a state statute or city or village ordinance  
10 involving being in the actual physical control of a motorboat or  
11 personal watercraft under propulsion upon the waters of this state  
12 while under the influence of alcoholic liquor or drugs or involving  
13 being in the actual physical control of a motorboat or personal  
14 watercraft under propulsion upon the waters of this state when the  
15 concentration of alcohol in the blood or breath is in excess of  
16 allowable levels on the ground that the evidence existed or was  
17 obtained outside of this state.

18 Sec. 14. Section 37-1254.07, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 37-1254.07 Upon the conviction of any person for  
21 violation of section 37-1254.01 or for being in the actual physical  
22 control of a motorboat or personal watercraft under propulsion upon  
23 the waters of this state while under the influence of alcohol or  
24 of any ~~controlled substance as defined in section 28-401~~ drug in  
25 violation of any city or village ordinance, there shall be assessed  
26 as part of the court costs the fee charged by any physician or  
27 any agency administering tests, pursuant to a permit issued in

1 accordance with section 37-1254.05, for the test administered and  
2 the analysis thereof pursuant to section 37-1254.02 if such test  
3 was actually made.

4 Sec. 15. Section 37-1254.08, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 37-1254.08 Any person arrested for any offense involving  
7 the actual physical control of a motorboat or personal watercraft  
8 under propulsion upon the waters of this state while under the  
9 influence of alcohol or drugs shall be required to submit to  
10 a chemical test or tests of his or her blood, ~~or~~ breath, or  
11 urine as provided in section 37-1254.02 without the preliminary  
12 breath test if the arresting officer does not have available the  
13 necessary equipment for administering a breath test or if the  
14 person is unconscious or is otherwise in a condition rendering him  
15 or her incapable of testing by a preliminary breath test. Only a  
16 physician, registered nurse, or qualified technician acting at the  
17 request of a ~~law enforcement~~ peace officer may withdraw blood for  
18 the purpose of determining ~~its alcohol content,~~ the concentration  
19 of alcohol or the presence of drugs, but such limitation shall not  
20 apply to the taking of a breath or urine specimen.

21 Sec. 16. Any peace officer who has been duly authorized  
22 to make arrests for violations of laws of this state or ordinances  
23 of any city or village may require any person who has in his or her  
24 actual physical control a motorboat or personal watercraft under  
25 propulsion upon the waters of this state to submit to a preliminary  
26 test of his or her breath for alcohol concentration if the officer  
27 has reasonable grounds to believe that such person is under the

1 influence of alcohol or of any drug or has committed a violation of  
2 section 37-1254.01 or 37-1254.02. Any person who refuses to submit  
3 to such preliminary breath test or whose preliminary breath test  
4 results indicate an alcohol concentration in violation of section  
5 37-1254.01 shall be placed under arrest. Any person who refuses to  
6 submit to such preliminary breath test shall be guilty of a Class  
7 III misdemeanor.

8           Sec. 17. (1) It shall be unlawful for any person to be in  
9 the actual physical control of a motorboat or personal watercraft  
10 under propulsion upon the waters of this state during a period of  
11 court-ordered prohibition resulting from a conviction based upon a  
12 violation of section 37-1254.01 or 37-1254.02 or a city or village  
13 ordinance enacted in conformance with either section.

14           (2) Any person who has been convicted of a violation of  
15 this section is guilty of a Class I misdemeanor.

16           Sec. 18. (1) For purposes of sentencing under section 19  
17 of this act:

18           (a) Prior conviction means a conviction for which a final  
19 judgment has been entered prior to the offense for which the  
20 sentence is being imposed as follows:

21           (i) For a violation of section 37-1254.01:

22           (A) Any conviction for a violation of section 37-1254.01;

23           (B) Any conviction for a violation of a city or village  
24 ordinance enacted in conformance with section 37-1254.01; or

25           (C) Any conviction under a law of another state if, at  
26 the time of the conviction under the law of such other state,  
27 the offense for which the person was convicted would have been a

1 violation of section 37-1254.01; or

2 (ii) For a violation of section 37-1254.02:

3 (A) Any conviction for a violation of section 37-1254.02;

4 (B) Any conviction for a violation of a city or village  
5 ordinance enacted in conformance with section 37-1254.02; or

6 (C) Any conviction under a law of another state if, at  
7 the time of the conviction under the law of such other state,  
8 the offense for which the person was convicted would have been a  
9 violation of section 37-1254.02; and

10 (b) Prior conviction includes any conviction under  
11 section 37-1254.01 or 37-1254.02, or any city or village ordinance  
12 enacted in conformance with either of such sections, as such  
13 sections or city or village ordinances existed at the time of  
14 such conviction regardless of subsequent amendments to any of such  
15 sections or city or village ordinances.

16 (2) The prosecutor shall present as evidence for purposes  
17 of sentence enhancement a court-certified copy or an authenticated  
18 copy of a prior conviction in another state. The court-certified  
19 or authenticated copy shall be prima facie evidence of such prior  
20 conviction.

21 (3) For each conviction for a violation of section  
22 37-1254.01 or 37-1254.02, the court shall, as part of the judgment  
23 of conviction, make a finding on the record whether the convicted  
24 person has a usable prior conviction. The convicted person shall  
25 be given the opportunity to review the record of his or her prior  
26 convictions, bring mitigating facts to the attention of the court  
27 prior to sentencing, and make objections on the record regarding

1 the validity of such prior convictions.

2 (4) A person arrested for a violation of section  
3 37-1254.01 or 37-1254.02 before the operative date of this act  
4 but sentenced for such violation on or after the operative date of  
5 this act shall be sentenced according to the provisions of section  
6 37-1254.01 or 37-1254.02 in effect on the date of arrest.

7 Sec. 19. Any person convicted of a violation of section  
8 37-1254.01 or 37-1254.02 shall be punished as follows:

9 (1) If such person has not had a prior conviction, such  
10 person shall be guilty of a Class II misdemeanor. Upon conviction  
11 the court shall, as part of the judgment of conviction, order such  
12 person not to be in the actual physical control of any motorboat or  
13 personal watercraft under propulsion upon the waters of this state  
14 for any purpose for a period of six months from the date of such  
15 conviction. Such order shall be administered upon sentencing, upon  
16 final judgment of any appeal or review, or upon the date that any  
17 probation is revoked.

18 If the court places such person on probation or suspends  
19 the sentence for any reason, the court shall, as one of the  
20 conditions of probation or sentence suspension, order such person  
21 not to be in the actual physical control of any motorboat or  
22 personal watercraft under propulsion upon the waters of this state  
23 for any purpose for a period of sixty days from the date of the  
24 order; and

25 (2) If such person has had one or more prior convictions,  
26 such person shall be guilty of a Class I misdemeanor. Upon  
27 conviction the court shall, as part of the judgment of conviction,

1 order such person not to be in the actual physical control of any  
2 motorboat or personal watercraft under propulsion upon the waters  
3 of this state for any purpose for a period of two years from the  
4 date of such conviction. Such order shall be administered upon  
5 sentencing or upon final judgment of any appeal or review. The  
6 two-year court-ordered prohibition shall apply even if probation is  
7 granted or the sentence suspended.

8           Sec. 20. Section 37-1295, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           37-1295 A certificate of title which is issued on or  
11 after January 1, 2005, shall disclose in writing, from any  
12 records readily accessible to the Department of Motor Vehicles  
13 or county officials or a ~~law enforcement~~ peace officer, anything  
14 which indicates that the motorboat was previously issued a title  
15 in another jurisdiction that bore any word or symbol signifying  
16 that the motorboat was damaged, including, but not limited to,  
17 older model salvage, unrebuildable, parts only, scrap, junk,  
18 nonrepairable, reconstructed, rebuilt, flood damaged, damaged, or  
19 any other indication, symbol, or word of like kind, and the name of  
20 the jurisdiction issuing the previous title.

21           Sec. 21. Section 53-180, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           53-180 No person shall sell, furnish, give away, ~~dispose~~  
24 ~~of~~, exchange, or deliver, or permit the sale, gift, or procuring  
25 of any alcoholic liquors, to or for any minor or to any person who  
26 is mentally incompetent.

27           Sec. 22. Section 53-180.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           53-180.05 (1) ~~Any~~ Except as provided in subsection (2)  
3 of this section, any person violating who violates section 53-180  
4 shall be guilty of a Class I misdemeanor.

5           (2) Any person who knowingly and intentionally violates  
6 section 53-180 shall be guilty of a Class IIIA felony and serve a  
7 mandatory minimum of at least thirty days' imprisonment as part of  
8 any sentence he or she receives if serious bodily injury or death  
9 to any person resulted and was proximately caused by a minor's  
10 (a) consumption of the alcoholic liquor provided or (b) impaired  
11 condition which, in whole or in part, can be attributed to the  
12 alcoholic liquor provided.

13           (3) Any person violating who violates any of the  
14 provisions of section 53-180.01 or 53-180.03 shall be guilty  
15 of a Class III misdemeanor.

16           (4) Any person older than eighteen years of age and under  
17 the age of twenty-one years violating section 53-180.02 is guilty  
18 of a Class III misdemeanor.

19           (5) Any person eighteen years of age or younger violating  
20 section 53-180.02 is guilty of a misdemeanor as provided in section  
21 53-181 and shall be punished as provided in such section.

22           ~~(2)~~ (6) Any person who knowingly manufactures, creates,  
23 or alters any form of identification for the purpose of sale or  
24 delivery of such form of identification to a person under the age  
25 of twenty-one years shall be guilty of a Class I misdemeanor. For  
26 purposes of this subsection, form of identification means any card,  
27 paper, or legal document that may be used to establish the age of

1 the person named thereon for the purpose of purchasing alcoholic  
2 liquor.

3 ~~(3)~~ (7) When a minor is arrested for a violation of  
4 sections 53-180 to 53-180.02 or subsection ~~(2)~~ (6) of this section,  
5 the law enforcement agency employing the arresting peace officer  
6 shall make a reasonable attempt to notify such minor's parent or  
7 guardian of the arrest.

8 Sec. 23. Section 60-497.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 60-497.01 (1) An abstract of the court record of every  
11 case in which a person is convicted of violating any provision  
12 of the Motor Vehicle Operator's License Act, the Motor Vehicle  
13 Safety Responsibility Act, the Nebraska Rules of the Road, or  
14 section 28-524, as from time to time amended by the Legislature,  
15 or any traffic regulations in city or village ordinances shall be  
16 transmitted within thirty days of sentencing or other disposition  
17 by the court to the director. Any abstract received by the director  
18 more than thirty days after the date of sentencing or other  
19 disposition shall be reported by the director to the State Court  
20 Administrator.

21 (2) Any person violating section 28-306, 28-394, 60-696,  
22 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 or section 2  
23 of this act who is placed on probation shall be assessed the  
24 same points under section 60-4,182 as if such person were not  
25 placed on probation unless a court has ordered that such person  
26 must obtain an ignition interlock permit in order to operate a  
27 motor vehicle with an ignition interlock device pursuant to section



1 60-6,211.05 and sufficient evidence is presented to the department  
2 that such a device is installed. For any other violation, the  
3 director shall not assess such person with any points under section  
4 60-4,182 for such violation when the person is placed on probation  
5 until the director is advised by the court that such person  
6 previously placed on probation has violated the terms of his or  
7 her probation and such probation has been revoked. Upon receiving  
8 notice of revocation of probation, the director shall assess to  
9 such person the points which such person would have been assessed  
10 had the person not been placed on probation. When a person fails  
11 to successfully complete probation, the court shall notify the  
12 director immediately.

13           Sec. 24. Section 60-498.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           60-498.01 (1) Because persons who drive while under the  
16 influence of alcohol present a hazard to the health and safety of  
17 all persons using the highways, a procedure is needed for the swift  
18 and certain revocation of the operator's license of any person who  
19 has shown himself or herself to be a health and safety hazard (a)  
20 by driving with an excessive concentration of alcohol in his or her  
21 body or (b) by driving while under the influence of alcohol.

22           (2) If a person arrested as described in subsection (2)  
23 of section 60-6,197 refuses to submit to the chemical test of  
24 blood, breath, or urine required by section 60-6,197, the test  
25 shall not be given except as provided in section 60-6,210 for the  
26 purpose of medical treatment and the arresting peace officer, as  
27 agent for the ~~Director of Motor Vehicles,~~ director, shall verbally

1 serve notice to the arrested person of the intention to immediately  
2 confiscate and revoke the operator's license of such person and  
3 that the revocation will be automatic ~~thirty~~ fifteen days after  
4 the date of arrest, ~~unless a petition for hearing is filed within~~  
5 ~~ten days after the date of arrest as provided in subsection (6)~~  
6 ~~of this section.~~ The arresting peace officer shall within ten days  
7 forward to the director a sworn report stating (a) that the person  
8 was arrested as described in subsection (2) of section 60-6,197 and  
9 the reasons for such arrest, (b) that the person was requested to  
10 submit to the required test, and (c) that the person refused to  
11 submit to the required test. The director may accept a sworn report  
12 submitted electronically.

13 (3) If a person arrested as described in subsection (2)  
14 of section 60-6,197 submits to the chemical test of blood or breath  
15 required by section 60-6,197, the test discloses the presence of  
16 alcohol in any of the concentrations specified in section 60-6,196,  
17 and the test results are available to the arresting peace officer  
18 while the arrested person is still in custody, the arresting peace  
19 officer, as agent for the director, shall verbally serve notice  
20 to the arrested person of the intention to immediately confiscate  
21 and revoke the operator's license of such person and that the  
22 revocation will be automatic ~~thirty~~ fifteen days after the date  
23 of arrest, ~~unless a petition for hearing is filed within ten days~~  
24 ~~after the date of arrest as provided in subsection (6) of this~~  
25 ~~section.~~ The arresting peace officer shall within ten days forward  
26 to the director a sworn report stating (a) that the person was  
27 arrested as described in subsection (2) of section 60-6,197 and

1 the reasons for such arrest, (b) that the person was requested  
2 to submit to the required test, and (c) that the person submitted  
3 to a test, the type of test to which he or she submitted, and  
4 that such test revealed the presence of alcohol in a concentration  
5 specified in section 60-6,196. The director may accept a sworn  
6 report submitted electronically.

7 (4) On behalf of the director, the arresting peace  
8 officer submitting a sworn report under subsection (2) or (3) of  
9 this section shall serve notice of the revocation on the arrested  
10 person, and the revocation shall be effective ~~thirty~~ fifteen days  
11 after the date of arrest. The notice of revocation shall contain  
12 a statement explaining the operation of the administrative license  
13 revocation procedure. The peace officer shall also provide to the  
14 arrested person an addressed envelope and a petition form which the  
15 arrested person may use to request a hearing before the director  
16 to contest the revocation. The petition form shall clearly state  
17 on its face that the petition must be completed and delivered to  
18 the Department of Motor Vehicles information prepared and approved  
19 by the director describing how to request an administrative license  
20 revocation hearing or apply for an ignition interlock permit from  
21 the department. A petition for an administrative license revocation  
22 hearing must be completed and delivered to the department or  
23 postmarked within ten days after receipt the person's arrest or the  
24 person's right to a an administrative license revocation hearing  
25 to contest the revocation will be foreclosed. The director shall  
26 prepare and approve the information form, the application for  
27 an ignition interlock permit, for the petition, the addressed

1 ~~envelope~~, and the notice of revocation and shall provide them to  
2 law enforcement agencies.

3           If the person has an operator's license, the arresting  
4 peace officer shall take possession of the license and issue a  
5 temporary operator's license valid for ~~thirty~~ fifteen days. The  
6 arresting peace officer shall forward the operator's license to the  
7 department along with the sworn report made under subsection (2) or  
8 (3) of this section.

9           (5)(a) If the results of a chemical test indicate the  
10 presence of alcohol in a concentration specified in section  
11 60-6,196, the results are not available to the arresting peace  
12 officer while the arrested person is in custody, and the notice  
13 of revocation has not been served as required by subsection (4)  
14 of this section, the peace officer shall forward to the director  
15 a sworn report containing the information prescribed by subsection  
16 (3) of this section within ten days after receipt of the results of  
17 the chemical test. If the sworn report is not received within ten  
18 days, the revocation shall not take effect. The director may accept  
19 a sworn report submitted electronically.

20           (b) Upon receipt of the report, the director shall serve  
21 the notice of revocation on the arrested person by ~~certified or~~  
22 ~~registered~~ mail to the address appearing on the records of the  
23 director. If the address on the director's records differs from  
24 the address on the arresting peace officer's report, the notice  
25 shall be sent to both addresses. The notice of revocation shall  
26 contain a statement explaining the operation of the administrative  
27 license revocation procedure. The director shall also provide

1 to the arrested person an addressed envelope and a petition  
2 form which the arrested person may use to request a hearing  
3 before the director to contest the revocation. The petition form  
4 shall clearly state on its face that the petition information  
5 prepared and approved by the director describing how to request  
6 an administrative license revocation hearing and an application  
7 for an ignition interlock permit. A petition for an administrative  
8 license revocation hearing must be completed and delivered to  
9 the department or postmarked within ten days after ~~receipt~~ the  
10 mailing of the notice of revocation or the person's right to a an  
11 administrative license revocation hearing to contest the revocation  
12 will be foreclosed. The director shall prepare and approve the ~~form~~  
13 ~~for the petition,~~ the addressed envelope, ignition interlock permit  
14 application and the notice of revocation. The revocation shall be  
15 effective ~~thirty~~ fifteen days after the date of mailing.

16 (c) If the records of the director indicate that the  
17 arrested person possesses an operator's license, the director  
18 shall include with the notice of revocation a temporary operator's  
19 license which expires ~~thirty~~ fifteen days after the date of  
20 mailing. Any arrested person who desires a an administrative  
21 license revocation hearing and has been served a notice of  
22 revocation pursuant to this subsection shall return his or her  
23 operator's license with the petition requesting the hearing. If the  
24 operator's license is not included with the petition requesting the  
25 hearing, the director shall deny the petition.

26 (6) (a) An arrested person's operator's license  
27 confiscated pursuant to subsection (4) of this section shall be

1 automatically revoked upon the expiration of ~~thirty~~ fifteen days  
2 after the date of arrest and the petition requesting the hearing  
3 shall be completed and delivered to the department or postmarked  
4 within ten days after the person's arrest. An arrested person's  
5 operator's license confiscated pursuant to subsection (5) of this  
6 section shall be automatically revoked upon the expiration of  
7 ~~thirty~~ fifteen days after the date of mailing of the notice of  
8 revocation by the director- ~~The~~ and the arrested person shall  
9 postmark or return to the director a petition within ten days  
10 after the ~~receipt~~ mailing of the notice of revocation if the  
11 arrested person desires a an administrative license revocation  
12 hearing. The petition shall be in writing and shall state the  
13 grounds on which the person is relying to prevent the revocation  
14 from becoming effective. The hearing and any prehearing conference  
15 may be conducted in person or by telephone, television, or other  
16 electronic means at the discretion of the director, and all parties  
17 may participate by such means at the discretion of the director.

18 (b) The director shall conduct the hearing within twenty  
19 days after a petition is ~~filed.~~ received by the director. Upon  
20 receipt of a petition, the director shall notify the petitioner of  
21 the date and location for the hearing by ~~certified or registered~~  
22 mail postmarked at least seven days prior to the hearing date. The  
23 filing of the petition shall not prevent the automatic revocation  
24 of the petitioner's operator's license at the expiration of the  
25 ~~thirty-day~~ fifteen-day period. A continuance of the hearing to  
26 a date beyond the expiration of the temporary operator's license  
27 shall stay the expiration of the temporary license when the request

1 for continuance is made by the director.

2 (c) At hearing the issues under dispute shall be limited  
3 to:

4 (i) In the case of a refusal to submit to a chemical test  
5 of blood, breath, or urine:

6 (A) Did the peace officer have probable cause to believe  
7 the person was operating or in the actual physical control of a  
8 motor vehicle in violation of section 60-6,196 or a city or village  
9 ordinance enacted in conformance with such section; and

10 (B) Did the person refuse to submit to or fail to  
11 complete a chemical test after being requested to do so by the  
12 peace officer; or

13 (ii) If the chemical test discloses the presence of  
14 alcohol in a concentration specified in section 60-6,196:

15 (A) Did the peace officer have probable cause to believe  
16 the person was operating or in the actual physical control of a  
17 motor vehicle in violation of section 60-6,196 or a city or village  
18 ordinance enacted in conformance with such section; and

19 (B) Was the person operating or in the actual physical  
20 control of a motor vehicle while having an alcohol concentration in  
21 violation of subsection (1) of section 60-6,196.

22 (7) (a) Any arrested person who submits an application  
23 for an ignition interlock permit in lieu of a petition for an  
24 administrative license revocation hearing regarding the revocation  
25 of his or her operator's license pursuant to this section shall  
26 complete the application for an ignition interlock permit in which  
27 such person acknowledges that he or she understands that he or

1 she will have his or her license administratively revoked pursuant  
2 to this section, that he or she waives his or her right to a  
3 hearing to contest the revocation, and that he or she understands  
4 that he or she is required to have an ignition interlock permit in  
5 order to operate a motor vehicle for the period of the revocation  
6 and shall include sufficient evidence that an ignition interlock  
7 device is installed on one or more vehicles that will be operated  
8 by the arrested person. Upon the arrested person's completion of  
9 the ignition interlock permit application process, the department  
10 shall issue the person an ignition interlock permit, subject to any  
11 applicable requirements and any applicable no-drive period if the  
12 person is otherwise eligible.

13 (b) An arrested person who is issued an ignition  
14 interlock permit pursuant to this section shall receive day-for-day  
15 credit for the period he or she has a valid ignition interlock  
16 permit against the license revocation period imposed by the court  
17 arising from the same incident.

18 (c) If a person files a completed application for an  
19 ignition interlock permit, the person waives his or her right to  
20 contest the revocation of his or her operator's license.

21 (8) Any person who has not petitioned for an  
22 administrative license revocation hearing and is subject to an  
23 administrative license revocation may immediately apply for an  
24 ignition interlock permit to use during the applicable period of  
25 revocation set forth in section 60-498.02, subject to the following  
26 additional restrictions:

27 (a) If such person submitted to a chemical test which



1 disclosed the presence of a concentration of alcohol in violation  
2 of section 60-6,196 and has no prior administrative license  
3 revocations on which final orders have been issued during the  
4 immediately preceding fifteen-year period at the time the order  
5 of revocation is issued, the ignition interlock permit will be  
6 immediately available fifteen days after the date of arrest or the  
7 date notice of revocation was provided to the arrested person as  
8 long, as he or she is otherwise eligible for an ignition interlock  
9 permit, upon completion of an application process for an ignition  
10 interlock permit;

11 (b) If such person submitted to a chemical test which  
12 disclosed the presence of a concentration of alcohol in violation  
13 of section 60-6,196 and has one or more prior administrative  
14 license revocations on which final orders have been issued during  
15 the immediately preceding fifteen-year period at the time the order  
16 of revocation is issued, the ignition interlock permit will be  
17 available beginning fifteen days after the date of arrest or the  
18 date notice of revocation was provided to the arrested person  
19 plus forty-five additional days of no driving, as long as he or  
20 she is otherwise eligible for an ignition interlock permit, upon  
21 completion of an application process for an ignition interlock  
22 permit;

23 (c) If such person refused to submit to a chemical  
24 test of blood, breath, or urine as required by section 60-6,197,  
25 the ignition interlock permit will be available beginning fifteen  
26 days after the date of arrest plus ninety additional days of no  
27 driving, as long as he or she is otherwise eligible for an ignition

1 interlock permit, upon completion of an application process for an  
2 ignition interlock permit; and

3 (d) Any person who petitions for an administrative  
4 license revocation hearing shall not be eligible for an ignition  
5 interlock permit unless ordered by the court at the time of  
6 sentencing for the related criminal proceeding.

7 ~~(7)~~ (9) The director shall adopt and promulgate rules  
8 and regulations to govern the conduct of the administrative license  
9 revocation hearing and insure that the hearing will proceed in  
10 an orderly manner. The director may appoint a hearing officer to  
11 preside at the hearing, administer oaths, examine witnesses, take  
12 testimony, and report to the director. Any motion for discovery  
13 filed by the petitioner shall entitle the prosecutor to receive  
14 full statutory discovery from the petitioner upon a prosecutor's  
15 request to the relevant court pursuant to section 29-1912 in  
16 any criminal proceeding arising from the same arrest. A copy  
17 of the motion for discovery shall be filed with the department  
18 and a copy provided to the prosecutor in the jurisdiction in  
19 which the petitioner was arrested. Incomplete discovery shall not  
20 stay the hearing unless the petitioner requests a continuance.

21 All proceedings before the hearing officer shall be recorded.  
22 Upon receipt of the arresting peace officer's sworn report, the  
23 director's order of revocation has prima facie validity and it  
24 becomes the petitioner's burden to establish by a preponderance of  
25 the evidence grounds upon which the operator's license revocation  
26 should not take effect. The director shall make a determination  
27 of the issue within seven days after the conclusion of the

1 hearing. A person whose operator's license is revoked following a  
2 hearing requested pursuant to this section may appeal the order of  
3 revocation as provided in section 60-498.04.

4 (10) Any person who tampers with or circumvents an  
5 ignition interlock device installed pursuant to sections 60-498.01  
6 to 60-498.04 or who operates a motor vehicle not equipped with  
7 a functioning ignition interlock device required pursuant to such  
8 sections or otherwise is in violation of the purposes for operation  
9 indicated on the ignition interlock permit under such sections  
10 shall, in addition to any possible criminal charges, have his or  
11 her revocation period and ignition interlock permit extended for  
12 six months beyond the end of the original revocation period.

13 Sec. 25. Section 60-498.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 60-498.02 (1) At the expiration of ~~thirty~~ fifteen days  
16 after the date of arrest as described in subsection (2) of section  
17 60-6,197 or if after a hearing pursuant to section 60-498.01 the  
18 director finds that the operator's license should be revoked,  
19 the director shall (a) revoke the operator's license of a person  
20 arrested for refusal to submit to a chemical test of blood, breath,  
21 or urine as required by section 60-6,197 for a period of one year  
22 and (b) revoke the operator's license of a person who submits to a  
23 chemical test pursuant to such section which discloses the presence  
24 of a concentration of alcohol specified in section 60-6,196 for  
25 a period of ~~ninety~~ one hundred eighty days unless the person's  
26 driving record abstract maintained in the department's computerized  
27 records shows one or more prior administrative license revocations

1 on which final orders have been issued during the immediately  
2 preceding ~~twelve-year~~ fifteen-year period at the time the order of  
3 revocation is issued, in which case the period of revocation shall  
4 be one year. Except as otherwise provided in section 60-6,211.05,  
5 a new operator's license shall not be issued to such person until  
6 the period of revocation has elapsed. If the person subject to  
7 the revocation is a nonresident of this state, the director shall  
8 revoke only the nonresident's operating privilege as defined in  
9 section 60-474 of such person and shall immediately forward the  
10 operator's license and a statement of the order of revocation to  
11 the person's state of residence.

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

20           ~~(b)~~ At the expiration of sixty days after an order of  
21 revocation is entered under subdivision ~~(1)(a)~~ of this section, any  
22 person whose operator's license has been administratively revoked  
23 for refusal to submit to a chemical test pursuant to section  
24 60-6,197, may make application to the director for issuance of  
25 an employment driving permit pursuant to section 60-4,130 unless  
26 the person's driving record abstract maintained in the department's  
27 computerized records shows one or more prior administrative license

1 ~~revocations on which final orders have been issued during the~~  
2 ~~immediately preceding twelve-year period at the time the order of~~  
3 ~~revocation is issued.~~

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

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

24 ~~(c) At the expiration of sixty days after an order~~  
25 ~~of administrative license revocation is entered under subdivision~~  
26 ~~(1)(a) of this section, any person who refused to submit to a~~  
27 ~~chemical test pursuant to section 60-6,197 is eligible for an order~~

1 to allow application for an ignition interlock permit in order to  
2 operate a motor vehicle equipped with an ignition interlock device  
3 pursuant to section 60-6,211.05 upon presentation of sufficient  
4 evidence to the department that such a device is installed, unless  
5 the person's driving record abstract maintained in the department's  
6 computerized records shows one or more prior administrative license  
7 revocations on which final orders have been issued during the  
8 immediately preceding twelve-year period at the time the order of  
9 revocation is issued.

10           (d) (2) A person operating a motor vehicle pursuant to  
11 this subsection under an ignition interlock permit issued pursuant  
12 to sections 60-498.01 to 60-498.04 who has no previous convictions  
13 under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous  
14 administrative license revocation shall only operate the motor  
15 vehicle to and from his or her residence, for purposes of his or  
16 her place of employment, his or her school, an alcohol a substance  
17 abuse treatment program, his or her parole or probation officer,  
18 his or her continuing health care or the continuing health care  
19 of another person who is dependent upon the person, his or her  
20 court-ordered community service responsibilities, or an ignition  
21 interlock service facility. A person operating a motor vehicle  
22 under an ignition interlock permit issued pursuant to sections  
23 60-498.01 to 60-498.04 who has a previous conviction under section  
24 60-6,196, 60-6,197, or 60-6,197.06 or a previous administrative  
25 license revocation shall only operate the motor vehicle to and  
26 from his or her residence for purposes of his or her employment,  
27 his or her school, or a substance abuse treatment program. Such

1 permit shall indicate for which purposes the permit may be used.  
2 All permits issued pursuant to this subsection shall indicate that  
3 the permit is not valid for the operation of any commercial motor  
4 vehicle.

5 ~~(4)~~ (3) A person may have his or her eligibility for a  
6 license reinstated upon payment of a reinstatement fee as required  
7 by section 60-694.01.

8 ~~(5)(a)~~ (4)(a) A person whose operator's license is  
9 subject to revocation pursuant to subsection (3) of section  
10 60-498.01 shall have all proceedings dismissed or his or her  
11 operator's license immediately reinstated without payment of the  
12 reinstatement fee upon receipt of suitable evidence by the director  
13 that:

14 (i) ~~Within the thirty-day period following the date~~  
15 ~~of arrest, the~~ The prosecuting attorney responsible for the  
16 matter declined to file a complaint alleging a violation of  
17 section 60-6,196; ~~and notified the director by first-class mail or~~  
18 ~~facsimile transmission of such decision and the director received~~  
19 ~~such notice within such period or the notice was postmarked within~~  
20 ~~such period; or~~

21 (ii) The defendant, after trial, was found not guilty  
22 of violating section 60-6,196 or such charge was dismissed on the  
23 merits by the court; ~~or-~~

24 (iii) In the criminal action on the charge of a violation  
25 of section 60-6,196 arising from the same incident, the court held  
26 one of the following:

27 (A) The peace officer did not have probable cause to

1 believe the person was operating or in the actual physical control  
2 of a motor vehicle in violation of section 60-6,196 or a city or  
3 village ordinance enacted in conformance with such section; or

4 (B) The person was not operating or in the actual  
5 physical control of a motor vehicle while having an alcohol  
6 concentration in violation of section 60-6,196 or a city or village  
7 ordinance enacted in conformance with such section.

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

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

22 Sec. 26. Section 60-498.03, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 60-498.03 (1) ~~The Director of Motor Vehicles~~ director  
25 shall reduce the decision revoking an operator's license under  
26 sections 60-498.01 to 60-498.04 to writing, and the director shall  
27 notify the person in writing of the revocation. The notice shall



1 set forth the period of revocation and be served by mailing it to  
2 such person ~~by certified or registered mail~~ to the address provided  
3 to the director at the administrative license revocation hearing  
4 or, if the person does not appear at the hearing, to the address  
5 appearing on the records of the director. If the address on the  
6 director's records differs from the address on the arresting peace  
7 officer's report, the notice shall be sent to both addresses.

8 (2) If the director does not revoke the operator's  
9 license, the director shall immediately notify the person in  
10 writing of the decision. The notice shall set forth the time and  
11 place the person may obtain his or her license. The notice shall  
12 be mailed ~~by certified or registered mail~~ as provided in subsection  
13 (1) of this section. No reinstatement fee shall be charged for  
14 return of the confiscated operator's license pursuant to this  
15 subsection.

16 Sec. 27. Section 60-498.04, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-498.04 Any person who feels himself or herself  
19 aggrieved because of the revocation of his or her operator's  
20 license under sections 60-498.01 to 60-498.04 may appeal therefrom  
21 to the district court of the county where the alleged events  
22 occurred for which he or she was arrested, and the appeal shall  
23 be in accordance with the Administrative Procedure Act. section  
24 84-917. The district court shall allow any party to an appeal  
25 to appear by telephone at any proceeding before the court for  
26 purposes of the appeal. Such appeal shall not suspend the order  
27 of revocation, ~~until the final judgment of a court finds against~~

1 ~~the person so appealing.~~ The court shall provide notice of the  
2 final judgment to the ~~Department of Motor Vehicles.~~ The period of  
3 ~~revocation shall commence at the time of final judgment of the~~  
4 ~~court for the full period of the time of revocation.~~ department.

5 Sec. 28. Section 60-4,115, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 60-4,115 (1) Fees for operators' licenses and state  
8 identification cards shall be collected and distributed according  
9 to the table in subsection (2) of this section, except for the  
10 ignition interlock permit and associated fees as outlined in  
11 subsection (4) of this section. County officials shall remit the  
12 county portion of the fees collected to the county treasurer for  
13 placement in the county general fund. All other fees collected  
14 shall be remitted to the State Treasurer for credit to the  
15 appropriate fund. The State Treasurer shall transfer an amount  
16 equal to three dollars and fifty cents times the number of original  
17 or renewal Class M licenses issued pursuant to section 60-4,127  
18 during the previous year from the Department of Motor Vehicles Cash  
19 Fund to the Motorcycle Safety Education Fund.

20 (2) The fees provided in this subsection in the  
21 following dollar amounts apply for operators' licenses and state  
22 identification cards.

Document	Department			
	Total	County	of Motor	State
	Fee	General	Vehicles	General
		Fund	Cash Fund	Fund

27 State identification card:

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 more than 4 years				
9	for person under 21	24.00	2.75	10.25	11.00
10	Valid for 5 years	24.00	3.50	10.25	10.25
11	Duplicate or replacement	11.00	2.75	6.00	2.25
12	Class O or M operator's license:				
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 5 years	24.00	3.50	10.25	10.25
21	Bioptic or telescopic lens restriction:				
22	Valid for 1 year or less	5.00	0	5.00	0
23	Valid for more than 1 year				
24	but not more than 2 years	10.00	2.75	4.00	3.25
25	Duplicate or replacement	11.00	2.75	6.00	2.25
26	Add, change, or remove class,				
27	endorsement, or restriction	5.00	0	5.00	0
28	Provisional operator's permit:				
29	Original	15.00	2.75	12.25	0

1	Bioptic or telescopic lens restriction:				
2	Valid for 1 year or less	5.00	0	5.00	0
3	Valid for more than 1 year				
4	but not more than 2 years	15.00	2.75	12.25	0
5	Duplicate or replacement	11.00	2.75	6.00	2.25
6	Add, change, or remove class,				
7	endorsement, or restriction	5.00	0	5.00	0
8	LPD-learner's permit:				
9	Original	8.00	.25	5.00	2.75
10	Duplicate or replacement	11.00	2.75	6.00	2.25
11	Add, change, or remove class,				
12	endorsement, or restriction	5.00	0	5.00	0
13	LPE-learner's permit:				
14	Original	8.00	.25	5.00	2.75
15	Duplicate or replacement	11.00	2.75	6.00	2.25
16	Add, change, or remove class,				
17	endorsement, or restriction	5.00	0	5.00	0
18	School permit:				
19	Original	8.00	.25	5.00	2.75
20	Duplicate or replacement	11.00	2.75	6.00	2.25
21	Add, change, or remove class,				
22	endorsement, or restriction	5.00	0	5.00	0
23	Farm permit:				
24	Original or renewal	5.00	.25	0	4.75
25	Duplicate or replacement	5.00	.25	0	4.75
26	Temporary	5.00	.25	0	4.75
27	Add, change, or remove class,				
28	endorsement, or restriction	5.00	0	5.00	0
29	Driving permits:				

1	Employment	45.00	0	5.00	40.00
2	Medical hardship	45.00	0	5.00	40.00
3	Duplicate or replacement	10.00	.25	5.00	4.75
4	Add, change, or remove class,				
5	endorsement, or restriction	5.00	0	5.00	0
6	Commercial driver's license:				
7	Valid for 1 year or less	11.00	1.75	5.00	4.25
8	Valid for more than 1 year				
9	but not more than 2 years	22.00	1.75	5.00	15.25
10	Valid for more than 2 years				
11	but not more than 3 years	33.00	1.75	5.00	26.25
12	Valid for more than 3 years				
13	but not more than 4 years	44.00	1.75	5.00	37.25
14	Valid for 5 years	55.00	1.75	5.00	48.25
15	Bioptic or telescopic lens restriction:				
16	Valid for one year or less	11.00	1.75	5.00	4.25
17	Valid for more than 1 year				
18	but not more than 2 years	22.00	1.75	5.00	15.25
19	Duplicate or replacement	11.00	2.75	6.00	2.25
20	Add, change, or remove class,				
21	endorsement, or restriction	10.00	1.75	5.00	3.25
22	LPC-learner's permit:				
23	Original or renewal	10.00	.25	5.00	4.75
24	Duplicate or replacement	10.00	.25	5.00	4.75
25	Add, change, or remove class,				
26	endorsement, or restriction	10.00	.25	5.00	4.75
27	Seasonal permit:				
28	Original or renewal	10.00	.25	5.00	4.75
29	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 ~~Probation Cash~~ Department of Motor  
17 Vehicles Ignition Interlock Fund.

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

27           (c) The fee for adding, changing, or removing a class,

1 endorsement, or restriction on an ignition interlock permit shall  
2 be five dollars. The fee shall be remitted to the State Treasurer  
3 for credit to the Department of Motor Vehicles Cash Fund.

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

18 Sec. 29. Section 60-4,118.06, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

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

1 ~~Department of Motor Vehicles~~ department and installed an approved  
2 ignition interlock device in accordance with such order, and (c)  
3 payment of the fee provided in section 60-4,115, such person  
4 may apply for an ignition interlock permit. A person subject to  
5 administrative license revocation under ~~section 60-498.02~~ sections  
6 60-498.01 to 60-498.04 shall be eligible for an ignition interlock  
7 permit as provided in such ~~section~~, sections. The director shall  
8 issue an ignition interlock permit for the operation of a motor  
9 vehicle equipped with an ignition interlock device. Any person  
10 issued an ignition interlock permit pursuant to a court order who  
11 has no previous convictions under section 60-6,196, 60-6,197, or  
12 60-6,197.06 and no previous administrative license revocation shall  
13 only operate the motor vehicle equipped with an ignition interlock  
14 device to and from his or her residence, for purposes of his or  
15 her place of employment, his or her school, an alcohol a substance  
16 abuse treatment program, his or her parole or probation officer,  
17 his or her continuing health care or the continuing health care  
18 of another person who is dependent upon the person, his or her  
19 court-ordered community service responsibilities, or an ignition  
20 interlock service facility. Any person issued an ignition interlock  
21 permit pursuant to a court order who has a previous conviction  
22 under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous  
23 administrative license revocation shall only operate the motor  
24 vehicle to and from his or her residence for purposes of his or  
25 her employment, his or her school, or a substance abuse treatment  
26 program. The permit shall indicate for which purposes the permit  
27 may be used. All permits issued pursuant to this subsection shall



1 indicate that the permit is not valid for the operation of any  
2 commercial motor vehicle.

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

11 (3) (a) An ignition interlock permit shall not be issued  
12 under this section or sections 60-498.01 to 60-498.04 to any  
13 person except in cases of a violation of subdivision (3) (b) or (c)  
14 of section 28-306, subdivision (3) (b) or (c) of section 28-394,  
15 section 60-6,196, 60-6,197, or 60-6,197.06, or section 2 of this  
16 act.

17 (b) An ignition interlock permit shall only be available  
18 to a holder of a Class M or O operator's license.

19 (4) The director shall revoke a person's ignition  
20 interlock permit issued under this section or sections 60-498.01 to  
21 60-498.04 upon receipt of an (a) abstract of conviction indicating  
22 that the person had his or her operating privileges revoked or  
23 canceled or (b) administrative order revoking or canceling the  
24 person's operating privileges, if such conviction or order resulted  
25 from an incident other than the incident which resulted in the  
26 application for the ignition interlock permit.

27 ~~(3) A person who operates a motor vehicle in violation~~

1 of the purposes for operation indicated on the ignition interlock  
2 permit shall be guilty of a Class II misdemeanor, shall have his or  
3 her ignition interlock permit revoked, and shall serve the balance  
4 of any revocation period without the privilege to operate a motor  
5 vehicle using an ignition interlock device.

6 Sec. 30. Section 60-4,129, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 60-4,129 (1) Any individual person whose operator's  
9 license is revoked under section ~~60-498.02~~, 60-4,183, or 60-4,186  
10 or suspended under section 43-3318 shall be eligible to operate any  
11 motor vehicle, except a commercial motor vehicle, in this state  
12 under an employment driving permit. An employment driving permit  
13 issued due to a revocation under section ~~60-498.02~~, 60-4,183, or  
14 60-4,186 is valid for the period of revocation. An employment  
15 driving permit issued due to a suspension of an operator's license  
16 under section 43-3318 is valid for no more than three months  
17 and cannot be renewed. An employment driving permit shall not  
18 be issued to any person subject to an administrative license  
19 revocation who submitted to a chemical test pursuant to section  
20 ~~60-6,197~~ which disclosed the presence of a concentration of alcohol  
21 in violation of section 60-6,196 if the person's driving record  
22 abstract maintained in the department's computerized records shows  
23 one or more prior administrative license revocations on which  
24 final orders have been issued during the immediately preceding  
25 twelve-year period at the time the order of revocation is issued.

26 (2) Any person whose operator's license has been  
27 suspended or revoked pursuant to any law of this state, except

1 section 43-3318, ~~60-498-02~~, 60-4,183, or 60-4,186, shall not be  
2 eligible to receive an employment driving permit during the period  
3 of such suspension or revocation.

4 (3) ~~An individual~~ A person who is issued an employment  
5 driving permit may operate any motor vehicle, except a commercial  
6 motor vehicle, (a) from his or her residence to his or her place  
7 of employment and return and (b) during the normal course of  
8 employment if the use of a motor vehicle is necessary in the course  
9 of such employment. Such permit shall indicate for which purposes  
10 the permit may be used. All permits issued pursuant to this section  
11 shall indicate that the permit is not valid for the operation of  
12 any commercial motor vehicle.

13 (4) The operation of a motor vehicle by the holder of  
14 an employment driving permit, except as provided in this section,  
15 shall be unlawful. Any person who violates this section shall be  
16 guilty of a Class IV misdemeanor.

17 (5) The director shall revoke ~~the~~ a person's employment  
18 driving permit ~~for an individual~~ upon receipt of an abstract of  
19 conviction, other than a conviction which is based upon actions  
20 which resulted in the application for such employment driving  
21 permit, indicating that the ~~individual~~ person committed an offense  
22 for which points are assessed pursuant to section 60-4,182. If  
23 the permit is revoked in this manner, the ~~individual~~ person shall  
24 not be eligible to receive an employment driving permit for the  
25 remainder of the period of suspension or revocation of his or her  
26 operator's license.

27 Sec. 31. Section 60-4,164, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           60-4,164 (1) Any person who operates or is in the actual  
3 physical control of a commercial motor vehicle upon a highway in  
4 this state shall be deemed to have given his or her consent to  
5 submit to a chemical test or tests of his or her blood or breath  
6 for the purpose of determining the amount of alcoholic content in  
7 his or her blood or breath.

8           (2) Any law enforcement officer who has been duly  
9 authorized to make arrests for violations of traffic laws of  
10 this state or of ordinances of any city or village who, after  
11 stopping or detaining the operator of any commercial motor vehicle,  
12 has reasonable grounds to believe that the operator was driving or  
13 in the actual physical control of a commercial motor vehicle while  
14 having any alcoholic liquor in his or her body may require such  
15 operator to submit to a chemical test or tests of his or her blood  
16 or breath for the purpose of determining the alcoholic content of  
17 such blood or breath.

18           (3) Any law enforcement officer who has been duly  
19 authorized to make arrests for violations of traffic laws of  
20 this state or of ordinances of any city or village may require  
21 any person who operates or has in his or her actual physical  
22 control a commercial motor vehicle upon a highway in this state  
23 to submit to a preliminary breath test of his or her breath for  
24 alcoholic content if the officer has reasonable grounds to believe  
25 that such person has any alcoholic liquor in his or her body,  
26 has committed a moving traffic violation, or has been involved in  
27 a traffic accident. Any such person who refuses to submit to a

1 preliminary breath test shall be placed under arrest and shall be  
2 guilty of a Class V misdemeanor. Any person arrested for refusing  
3 to submit to a preliminary breath test or any person who submits  
4 to a preliminary breath test the results of which indicate the  
5 presence of any alcoholic liquor in such person's body may, upon  
6 the direction of a law enforcement officer, be required to submit  
7 to a chemical test or tests of his or her blood or breath for a  
8 determination of the alcoholic content.

9 (4) Any person operating or in the actual physical  
10 control of a commercial motor vehicle who submits to a chemical  
11 test or tests of his or her blood or breath which discloses the  
12 presence of any alcoholic liquor in his or her body shall be  
13 placed out of service for twenty-four hours by the law enforcement  
14 officer.

15 (5) Any person operating or in the actual physical  
16 control of a commercial motor vehicle who refuses to submit to  
17 a chemical test or tests of his or her blood or breath or any  
18 person operating or in the actual physical control of a commercial  
19 motor vehicle who submits to a chemical test or tests of his or  
20 her blood or breath which discloses an alcoholic concentration of:

21 (a) Four-hundredths of one gram or more by weight of alcohol per  
22 one hundred milliliters of his or her blood or (b) four-hundredths  
23 of one gram or more by weight of alcohol per two hundred ten  
24 liters of his or her breath shall be placed out of service for  
25 twenty-four hours by the law enforcement officer, and the officer  
26 shall forward to the director a sworn report. The director may  
27 accept a sworn report submitted electronically. The report shall

1 state that the person was operating or in the actual physical  
2 control of a commercial motor vehicle, was requested to submit  
3 to the required chemical test or tests, and refused to submit to  
4 the required chemical test or tests or submitted to the required  
5 chemical test or tests and possessed an alcohol concentration at or  
6 in excess of that specified by this subsection.

7 (6) Any person involved in a commercial motor vehicle  
8 accident in this state may be required to submit to a chemical  
9 test or tests of his or her blood or breath by any law enforcement  
10 officer if the officer has reasonable grounds to believe that  
11 such person was driving or was in actual physical control of a  
12 commercial motor vehicle on a highway in this state while under  
13 the influence of alcoholic liquor at the time of the accident. A  
14 person involved in a commercial motor vehicle accident subject to  
15 the implied consent law of this state shall not be deemed to have  
16 withdrawn consent to submit to a chemical test or tests of his or  
17 her blood or breath by reason of leaving this state. If the person  
18 refuses a test or tests under this section and leaves the state for  
19 any reason following an accident, he or she shall remain subject to  
20 this section upon return.

21 Sec. 32. Section 60-601, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 60-601 Sections 60-601 to 60-6,379 and sections 38 and 41  
24 of this act shall be known and may be cited as the Nebraska Rules  
25 of the Road.

26 Sec. 33. Section 60-6,197, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   60-6,197 (1) Any person who operates or has in his or  
2 her actual physical control a motor vehicle in this state shall be  
3 deemed to have given his or her consent to submit to a chemical  
4 test or tests of his or her blood, breath, or urine for the purpose  
5 of determining the concentration of alcohol or the presence of  
6 drugs in such blood, breath, or urine.

7                   (2) Any peace officer who has been duly authorized to  
8 make arrests for violations of traffic laws of this state or of  
9 ordinances of any city or village may require any person arrested  
10 for any offense arising out of acts alleged to have been committed  
11 while the person was driving or was in actual physical control of  
12 a motor vehicle while under the influence of alcoholic liquor or  
13 drugs to submit to a chemical test or tests of his or her blood,  
14 breath, or urine for the purpose of determining the concentration  
15 of alcohol or the presence of drugs in such blood, breath, or  
16 urine when the officer has reasonable grounds to believe that such  
17 person was driving or was in the actual physical control of a motor  
18 vehicle in this state while under the influence of alcoholic liquor  
19 or drugs in violation of section 60-6,196.

20                   (3) Any person arrested as described in subsection (2)  
21 of this section may, upon the direction of a peace officer, be  
22 required to submit to a chemical test or tests of his or her  
23 blood, breath, or urine for a determination of the concentration  
24 of alcohol or the presence of drugs. If the chemical test  
25 discloses the presence of a concentration of alcohol in violation  
26 of subsection (1) of section 60-6,196, the person shall be subject  
27 to the administrative license revocation procedures provided in

1 sections 60-498.01 to 60-498.04 and upon conviction ~~shall~~ be  
2 punished as provided in sections 60-6,197.02 to 60-6,197.08. Any  
3 person who refuses to submit to such test or tests required  
4 pursuant to this section shall be subject to the administrative  
5 license revocation procedures provided in sections 60-498.01 to  
6 60-498.04 and shall be guilty of a crime and upon conviction  
7 punished as provided in sections 60-6,197.02 to 60-6,197.08.

8 (4) Any person involved in a motor vehicle accident in  
9 this state may be required to submit to a chemical test or tests  
10 of his or her blood, breath, or urine by any peace officer if  
11 the officer has reasonable grounds to believe that the person was  
12 driving or was in actual physical control of a motor vehicle on a  
13 public highway in this state while under the influence of alcoholic  
14 liquor or drugs at the time of the accident. A person involved in  
15 a motor vehicle accident subject to the implied consent law of this  
16 state shall not be deemed to have withdrawn consent to submit to  
17 a chemical test of his or her blood, breath, or urine by reason  
18 of leaving this state. If the person refuses a test under this  
19 section and leaves the state for any reason following an accident,  
20 he or she shall remain subject to subsection (3) of this section  
21 and ~~section 60-498.02~~ sections 60-498.01 to 60-498.04 upon return.

22 (5) Any person who is required to submit to a chemical  
23 blood, breath, or urine test or tests pursuant to this section  
24 shall be advised that refusal to submit to such test or tests is  
25 a separate crime for which the person may be charged. Failure to  
26 provide such advisement shall not affect the admissibility of the  
27 chemical test result in any legal proceedings. However, failure to



1 provide such advisement shall negate the state's ability to bring  
2 any criminal charges against a refusing party pursuant to this  
3 section.

4 (6) Refusal to submit to a chemical blood, breath, or  
5 urine test or tests pursuant to this section shall be admissible  
6 evidence in any action for a violation of section 60-6,196 or a  
7 city or village ordinance enacted in conformance with such section.

8 Sec. 34. Section 60-6,197.02, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 60-6,197.02 (1) A violation of section 60-6,196 or  
11 60-6,197 shall be punished as provided in section 60-6,197.03.  
12 For purposes of sentencing under section 60-6,197.03:

13 (a) Prior conviction means a conviction for a violation  
14 committed within the ~~twelve-year~~ fifteen-year period prior to the  
15 offense for which the sentence is being imposed as follows:

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

17 (A) Any conviction for a violation of subdivision (3)(b)  
18 or (c) of section 28-306, subdivision (3)(b) or (c) of section  
19 28-394, section 60-6,196, 60-6,197, or 60-6,198, or section 2 of  
20 this act;

21 (B) Any conviction for a violation of a city or village  
22 ordinance enacted in conformance with section 60-6,196 or 60-6,197;  
23 or

24 (C) Any conviction under a law of another state if, at  
25 the time of the conviction under the law of such other state,  
26 the offense for which the person was convicted would have been  
27 a violation of subdivision (3)(b) or (c) of section 28-306,

1 subdivision (3)(b) or (c) of section 28-394, section 60-6,196,  
2 60-6,197, or 60-6,198, or section 2 of this act; or

3 ~~(D) Any conviction for a violation of section 60-6,198;~~  
4 ~~or~~

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

6 (A) Any conviction for a violation of subdivision (3)(b)  
7 or (c) of section 28-306, subdivision (3)(b) or (c) of section  
8 28-394, section 60-6,196, 60-6,197, or 60-6,198, or section 2 of  
9 this act;

10 (B) Any conviction for a violation of a city or village  
11 ordinance enacted in conformance with section 60-6,196 or 60-6,197;  
12 or

13 (C) Any conviction under a law of another state if, at  
14 the time of the conviction under the law of such other state,  
15 the offense for which the person was convicted would have been  
16 a violation of subdivision (3)(b) or (c) of section 28-306,  
17 subdivision (3)(b) or (c) of section 28-394, section 60-6,196,  
18 60-6,197, or 60-6,198, or section 2 of this act;

19 (b) Prior conviction includes any conviction under  
20 section 60-6,196, 60-6,197, or 60-6,198, or section 2 of this act,  
21 or any city or village ordinance enacted in conformance with ~~any of~~  
22 ~~such sections,~~ section 60-6,196 or 60-6,197, as such sections or  
23 city or village ordinances existed at the time of such conviction  
24 regardless of subsequent amendments to any of such sections or city  
25 or village ordinances; and

26 (c) ~~Twelve-year~~ Fifteen-year period means the period  
27 computed from the date of the prior offense to the date of the

1 offense which resulted in the conviction for which the sentence is  
2 being imposed.

3 (2) In any case charging a violation of section 60-6,196  
4 or 60-6,197, the prosecutor or investigating agency shall use due  
5 diligence to obtain the person's driving record from the Department  
6 of Motor Vehicles and the person's driving record from other states  
7 where he or she is known to have resided within the last ~~twelve~~  
8 fifteen years. The prosecutor shall certify to the court, prior  
9 to sentencing, that such action has been taken. The prosecutor  
10 shall present as evidence for purposes of sentence enhancement a  
11 court-certified copy or an authenticated copy of a prior conviction  
12 in another state. The court-certified or authenticated copy shall  
13 be prima facie evidence of such prior conviction.

14 (3) For each conviction for a violation of section  
15 60-6,196 or 60-6,197, the court shall, as part of the judgment of  
16 conviction, make a finding on the record as to the number of the  
17 convicted person's prior convictions. The convicted person shall  
18 be given the opportunity to review the record of his or her prior  
19 convictions, bring mitigating facts to the attention of the court  
20 prior to sentencing, and make objections on the record regarding  
21 the validity of such prior convictions.

22 (4) A person arrested for a violation of section 60-6,196  
23 or 60-6,197 before ~~May 14, 2009,~~ the operative date of this act  
24 but sentenced pursuant to section 60-6,197.03 for such violation  
25 on or after ~~May 14, 2009,~~ the operative date of this act shall  
26 be sentenced according to the provisions of section 60-6,197.03 in  
27 effect on the date of arrest.

1           Sec. 35. Section 60-6,197.03, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-6,197.03 Any person convicted of a violation of  
4 section 60-6,196 or 60-6,197 shall be punished as follows:

5           (1) Except as provided in subdivision (2) of this  
6 section, if such person has not had a prior conviction, such  
7 person shall be guilty of a Class W misdemeanor, and the court  
8 shall, as part of the judgment of conviction, order that the  
9 operator's license of such person be revoked ~~or impounded~~ for a  
10 period of six months from the date ordered by the court. ~~If the~~  
11 ~~court orders the person's operator's license impounded,~~ the court  
12 shall also order that the person shall not operate a motor vehicle  
13 for a period of six months and shall not order the installation  
14 of an ignition interlock device or an ignition interlock permit.  
15 ~~If the court orders the person's operator's license revoked,~~ the  
16 ~~revocation period shall be for six months.~~ The revocation order  
17 shall require that the person not drive for a period of thirty  
18 ~~days,~~ after which the court may order that the person apply for an  
19 ignition interlock permit pursuant to section 60-6,211.05 for the  
20 ~~remainder~~ of the revocation period and have an ignition interlock  
21 device installed on any motor vehicle he or she operates during the  
22 ~~remainder~~ of the revocation period. Such revocation ~~or impoundment~~  
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  
26 the sentence for any reason, the court shall, as one of the  
27 conditions of probation or sentence suspension, order that the

1 operator's license of such person be revoked for a period of sixty  
2 days from the date ordered by the court. The court ~~may~~ shall  
3 order that during the period of revocation the person apply for  
4 an ignition interlock permit ~~and the installation of an ignition~~  
5 ~~interlock device~~ pursuant to section 60-6,211.05. Such order of  
6 probation or sentence suspension shall also include, as one of its  
7 conditions, the payment of a four-hundred-dollar fine;

8 (2) If such person has not had a prior conviction  
9 and, as part of the current violation, had a concentration of  
10 fifteen-hundredths of one gram or more by weight of alcohol per  
11 one hundred milliliters of his or her blood or fifteen-hundredths  
12 of one gram or more by weight of alcohol per two hundred ten  
13 liters of his or her breath, such person shall be guilty of a  
14 Class W misdemeanor, and the court shall, as part of the judgment  
15 of conviction, revoke the operator's license of such person for  
16 a period of one year from the date ordered by the court. The  
17 revocation order shall require ~~that the person not drive for~~  
18 ~~a period of sixty days,~~ after which the court may order that  
19 the person apply for an ignition interlock permit pursuant to  
20 subdivision (1)(b) of section 60-6,197.01 for ~~the remainder~~ of the  
21 revocation period and have an ignition interlock device installed  
22 on any motor vehicle he or she operates during ~~the remainder~~ of  
23 the revocation period. Such revocation shall be administered upon  
24 sentencing, upon final judgment of any appeal or review, or upon  
25 the date that any probation is revoked.

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

1 conditions of probation or sentence suspension, order that the  
2 operator's license of such person be revoked for a period of one  
3 year from the date ordered by the court. The revocation order  
4 shall require that the person not drive for a period of ~~forty-five~~  
5 ~~days,~~ after which the court may order that the person apply for  
6 an ignition interlock permit pursuant to subdivision (1)(b) of  
7 section 60-6,197.01 for the remainder of the revocation period  
8 and have an ignition interlock device installed on any motor  
9 vehicle he or she operates during the remainder of the revocation  
10 period. Such revocation shall be administered upon sentencing, upon  
11 final judgment of any appeal or review, or upon the date that  
12 any probation is revoked. Such order of probation or sentence  
13 suspension shall also include, as conditions, the payment of a  
14 five-hundred-dollar fine and either confinement in the city or  
15 county jail for two days or the imposition of not less than one  
16 hundred twenty hours of community service;

17 (3) Except as provided in subdivision (5) of this  
18 section, if such person has had one prior conviction, such person  
19 shall be guilty of a Class W misdemeanor, and the court shall,  
20 as part of the judgment of conviction, order that the operator's  
21 license of such person be revoked for a period of one year from  
22 the date ordered by the court. The revocation order shall require  
23 that the person not drive for a period of ~~sixty~~ forty-five days,  
24 after which the court may shall order that the person apply for  
25 an ignition interlock permit for the remainder of the revocation  
26 period and have an ignition interlock device installed on any  
27 motor vehicle he or she owns or operates during the remainder

1 of the revocation period and shall issue an order pursuant to  
2 subdivision (1)(b) of section 60-6,197.01. Such revocation shall be  
3 administered upon sentencing, upon final judgment of any appeal or  
4 review, or upon the date that any probation is revoked.

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

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

1 upon the date that any probation is revoked.

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

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



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

20           (6) If such person has had two prior convictions  
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 one  
23 hundred milliliters of his or her blood or fifteen-hundredths of  
24 one gram or more by weight of alcohol per two hundred ten liters  
25 of his or her breath or refused to submit to a test as required  
26 under section 60-6,197, such person shall be guilty of a Class IIIA  
27 felony, and the court shall, as part of the judgment of conviction,

1 revoke the operator's license of such person for a period of  
2 fifteen years from the date ordered by the court and shall issue  
3 an order pursuant to section 60-6,197.01. Such revocation and order  
4 shall be administered upon sentencing, upon final judgment of any  
5 appeal or review, or upon the date that any probation is revoked.  
6 The court shall also sentence such person to serve at least one  
7 hundred eighty days' imprisonment in the city or county jail or an  
8 adult correctional facility.

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 at  
13 least five years but not more than fifteen years from the date  
14 ordered by the court. The revocation order shall require that the  
15 person not drive for a period of forty-five days, after which the  
16 court may order that during the period of revocation the person  
17 apply for an ignition interlock permit and installation of an  
18 ignition interlock device issued pursuant to section 60-6,211.05  
19 and shall issue an order pursuant to subdivision (1)(b) of section  
20 60-6,197.01. Such order of probation or sentence suspension shall  
21 also include, as conditions, the payment of a one-thousand-dollar  
22 fine, ~~and~~ confinement in the city or county jail for sixty days,  
23 and, upon release from such confinement, the use of a continuous  
24 alcohol monitoring device and abstention from alcohol use at all  
25 times for no less than sixty days;

26           (7) Except as provided in subdivision (8) of this  
27 section, if such person has had three prior convictions, such

1 person shall be guilty of a Class IIIA felony, and the court shall,  
2 as part of the judgment of conviction, order that the operator's  
3 license of such person be revoked for a period of fifteen years  
4 from the date ordered by the court and shall issue an order  
5 pursuant to section 60-6,197.01. Such orders shall be administered  
6 upon sentencing, upon final judgment of any appeal or review, or  
7 upon the date that any probation is revoked. The court shall also  
8 sentence such person to serve at least one hundred eighty days'  
9 imprisonment in the city or county jail or an adult correctional  
10 facility.

11           If the court places such person on probation or suspends  
12 the sentence for any reason, the court shall, as one of the  
13 conditions of probation or sentence suspension, order that the  
14 operator's license of such person be revoked for a period of  
15 fifteen years from the date ordered by the court. The revocation  
16 order shall require that the person not drive for a period of  
17 forty-five days, after which the court may order that during the  
18 period of revocation the person apply for an ignition interlock  
19 permit and installation of an ignition interlock device issued  
20 pursuant to section 60-6,211.05 and shall issue an order pursuant  
21 to subdivision (1)(b) of section 60-6,197.01. Such order of  
22 probation or sentence suspension shall also include, as conditions,  
23 the payment of a one-thousand-dollar fine, and confinement in the  
24 city or county jail for ninety days, and, upon release from such  
25 confinement, the use of a continuous alcohol monitoring device and  
26 abstention from alcohol use at all times for no less than ninety  
27 days;

1           (8) If such person has had three prior convictions  
2 and, as part of the current violation, had a concentration of  
3 fifteen-hundredths of one gram or more by weight of alcohol per one  
4 hundred milliliters of his or her blood or fifteen-hundredths of  
5 one gram or more by weight of alcohol per two hundred ten liters  
6 of his or her breath or refused to submit to a test as required  
7 under section 60-6,197, such person shall be guilty of a Class III  
8 felony, and the court shall, as part of the judgment of conviction,  
9 revoke the operator's license of such person for a period of  
10 fifteen years from the date ordered by the court and shall issue  
11 an order pursuant to section 60-6,197.01. Such revocation and order  
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 fifteen years from the date ordered by the court. The revocation  
19 order shall require that the person not drive for a period of  
20 forty-five days, after which the court may order that during the  
21 period of revocation the person apply for an ignition interlock  
22 permit and installation of an ignition interlock device issued  
23 pursuant to section 60-6,211.05 and shall issue an order pursuant  
24 to subdivision (1)(b) of section 60-6,197.01. Such order of  
25 probation or sentence suspension shall also include, as conditions,  
26 the payment of a one-thousand-dollar fine, ~~and~~ confinement in the  
27 city or county jail for one hundred twenty days, and, upon release

1 from such confinement, the use of a continuous alcohol monitoring  
2 device and abstention from alcohol use at all times for no less  
3 than one hundred twenty days;

4           (9) Except as provided in subdivision (10) of this  
5 section, if such person has had four or more prior convictions,  
6 such person shall be guilty of a Class III felony, and the court  
7 shall, as part of the judgment of conviction, order that the  
8 operator's license of such person be revoked for a period of  
9 fifteen years from the date ordered by the court and shall issue  
10 an order pursuant to section 60-6,197.01. Such orders shall be  
11 administered upon sentencing, upon final judgment of any appeal or  
12 review, or upon 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  
17 fifteen years from the date ordered by the court. The revocation  
18 order shall require that the person not drive for a period of  
19 forty-five days, after which the court may order that during the  
20 period of revocation the person apply for an ignition interlock  
21 permit and installation of an ignition interlock device issued  
22 pursuant to section 60-6,211.05 and shall issue an order pursuant  
23 to subdivision (1)(b) of section 60-6,197.01. Such order of  
24 probation or sentence suspension shall also include, as conditions,  
25 the payment of a one-thousand-dollar fine, and confinement in the  
26 city or county jail for one hundred eighty days, and, upon release  
27 from such confinement, the use of a continuous alcohol monitoring

1 device and abstention from alcohol use at all times for no less  
2 than one hundred eighty days; and

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

17           If the court places such person on probation or suspends  
18 the sentence for any reason, the court shall, as one of the  
19 conditions of probation or sentence suspension, order that the  
20 operator's license of such person be revoked for a period of  
21 fifteen years from the date ordered by the court. The revocation  
22 order shall require that the person not drive for a period of  
23 forty-five days, after which the court may order that during the  
24 period of revocation the person apply for an ignition interlock  
25 permit and installation of an ignition interlock device issued  
26 pursuant to section 60-6,211.05 and shall issue an order pursuant  
27 to subdivision (1)(b) of section 60-6,197.01. Such order of

1 probation or sentence suspension shall also include, as conditions,  
2 the payment of a one-thousand-dollar fine, ~~and~~ confinement in the  
3 city or county jail for one hundred eighty days, and, upon release  
4 from such confinement, the use of a continuous alcohol monitoring  
5 device and abstention from alcohol use at all times for no less  
6 than one hundred eighty days.

7           Sec. 36. Section 60-6,197.05, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           60-6,197.05 Any period of revocation imposed by the court  
10 for a violation of section 60-6,196 or 60-6,197 shall be reduced  
11 by any period of revocation imposed under sections 60-498.01 to  
12 60-498.04, including any period during which a person has a valid  
13 ignition interlock permit, arising from the same incident. section  
14 ~~60-498.02. Any period of revocation imposed under subdivision (1)~~  
15 ~~of section 60-6,197.03 for a violation of section 60-6,196 or~~  
16 ~~60-6,197 or under subdivision (2)(a) of section 60-6,196, as such~~  
17 ~~section existed prior to July 16, 2004, shall not prohibit the~~  
18 ~~operation of a motor vehicle under the terms and conditions of~~  
19 ~~an employment driving permit issued pursuant to subsection (2) of~~  
20 ~~section 60-498.02.~~

21           Sec. 37. Section 60-6,197.09, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           60-6,197.09 Notwithstanding the provisions of section  
24 ~~60-498.02 or~~ 60-6,197.03, a person who commits a violation  
25 punishable under subdivision (3)(b) or (c) of section 28-306  
26 or subdivision (3)(b) or (c) of section 28-394 or a violation  
27 of section 60-6,196, 60-6,197, or 60-6,198 while participating in

1 criminal proceedings for a violation of section 60-6,196, 60-6,197,  
2 or 60-6,198, or a city or village ordinance enacted in accordance  
3 with section 60-6,196 or 60-6,197, or a law of another state if,  
4 at the time of the violation under the law of such other state,  
5 the offense for which the person was charged would have been a  
6 violation of section 60-6,197, shall not be eligible to receive a  
7 sentence of probation, or a suspended sentence, ~~or an employment~~  
8 ~~driving permit authorized under subsection (2) of section 60-498.02~~  
9 for either violation committed in this state.

10           Sec. 38. The Department of Motor Vehicles shall conduct  
11 an ongoing public education campaign to inform the residents of  
12 this state about the dangers and consequences of driving under  
13 the influence of alcohol or drugs in this state. Information shall  
14 include, but not be limited to, the criminal and administrative  
15 penalties for driving under the influence, any related laws, rules,  
16 instructions, and any explanatory matter. The department shall use  
17 its best efforts to utilize all available opportunities for making  
18 public service announcements on television and radio broadcasts for  
19 the public education campaign and to obtain and utilize federal  
20 funds for highway safety and other grants in conducting the public  
21 education campaign. The information may be included in publications  
22 containing information related to other motor vehicle laws and  
23 shall be given wide distribution by the department.

24           Sec. 39. Section 60-6,198, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           60-6,198 (1) Any person who, while operating a motor  
27 vehicle in violation of section 60-6,196 or 60-6,197, proximately



1 causes serious bodily injury to another person or an unborn child  
2 of a pregnant woman shall be guilty of a Class IIIA felony and  
3 the court shall, as part of the judgment of conviction, order  
4 the person not to drive any motor vehicle for any purpose for a  
5 period of at least sixty days and not more than fifteen years from  
6 the date ordered by the court and shall order that the operator's  
7 license of such person be revoked for the same period.

8 (2) For purposes of this section, serious bodily injury  
9 shall mean bodily injury which involves a substantial risk of  
10 death, a substantial risk of serious permanent disfigurement, or a  
11 temporary or protracted loss or impairment of the function of any  
12 part or organ of the body.

13 (3) For purposes of this section, unborn child shall have  
14 the same meaning as in section 28-396.

15 (4) The crime punishable under this section shall be  
16 treated as a separate and distinct offense from any other offense  
17 arising out of acts alleged to have been committed while the person  
18 was in violation of this section.

19 Sec. 40. Section 60-6,211.05, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 60-6,211.05 ~~(1)(a)~~ (1) If an order is granted under  
22 ~~section 60-6,196 or 60-6,197,~~ as such sections existed prior  
23 ~~to July 16, 2004,~~ ~~or~~ section 60-6,196 or 60-6,197 and sections  
24 60-6,197.02 and 60-6,197.03, as such sections existed ~~on or after~~  
25 ~~July 16, 2004,~~ the court may order that the defendant install an  
26 ignition interlock device of a type approved by the Director of  
27 Motor Vehicles on each motor vehicle operated by the defendant

1 during the period of ~~probation.~~ revocation. Upon sufficient  
2 evidence of installation, the defendant may apply to the director  
3 for an ignition interlock permit pursuant to section 60-4,118.06.  
4 The device shall, without tampering or the intervention of another  
5 person, prevent the defendant from operating the motor vehicle  
6 when the defendant has an alcohol concentration greater than  
7 three-hundredths of one gram or more by weight of alcohol per  
8 one hundred milliliters of his or her blood or three-hundredths  
9 of one gram or more by weight of alcohol per two hundred ten  
10 liters of his or her breath. The Department of Motor Vehicles  
11 shall issue an ignition interlock permit to the defendant under  
12 section 60-4,118.06 only upon sufficient proof that a defendant has  
13 installed an ignition interlock device on any motor vehicle that  
14 the defendant will operate during his or her release.

15 (b) If the court orders an ignition interlock permit  
16 and installation of an ignition interlock device as part of the  
17 judgment of conviction pursuant to section 60-6,197.03, the device  
18 shall be of a type approved by the director and shall be installed  
19 on each motor vehicle operated by the defendant. 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.

26 (2) If the court orders installation of an ignition  
27 interlock device and issuance of an ignition interlock permit

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

7 (3) Any order issued by the court pursuant to this  
8 section shall not take effect until the defendant is eligible to  
9 operate a motor vehicle pursuant to subsection ~~(3)~~ (8) of section  
10 ~~60-498.02.~~ 60-498.01. A person shall be eligible to be issued an  
11 ignition interlock permit allowing operation of a motor vehicle  
12 equipped with an ignition interlock device if he or she is not  
13 subject to any other suspension, cancellation, required no-driving  
14 period, or period of revocation and has successfully completed the  
15 ignition interlock permit application process. The Department of  
16 Motor Vehicles shall review its records and the driving record  
17 abstract of any person who applies for an ignition interlock permit  
18 allowing operation of a motor vehicle equipped with an ignition  
19 interlock device to determine (a) the applicant's eligibility  
20 for an ignition interlock permit, (b) the applicant's previous  
21 convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or  
22 any previous administrative license revocation, if any, (c) if the  
23 applicant is subject to any required no-drive periods before the  
24 ignition interlock permit may be issued, and (d) the permitted  
25 driving uses to be allowed to that person on his or her ignition  
26 interlock permit.

27 (4) (a) If the court orders an ignition interlock device

1 or the Board of Pardons orders an ignition interlock device under  
2 section 83-1,127.02, the court or the Board of Pardons shall order  
3 the defendant to apply for an ignition interlock permit as provided  
4 in section 60-4,118.06 which indicates that the defendant is only  
5 allowed to operate a motor vehicle equipped with an ignition  
6 interlock device.

7 (b) Such court order shall remain in effect for a  
8 period of time as determined by the court not to exceed the  
9 maximum term of revocation which the court could have imposed  
10 according to the nature of the violation and shall allow operation  
11 by the defendant of an ignition-interlock-equipped motor vehicle  
12 only to and (i) if the defendant has no previous conviction  
13 under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous  
14 administrative license revocation, to and from the defendant's his  
15 or her residence, the defendant's place of for purposes of his or  
16 her employment, the defendant's his or her school, an alcohol a  
17 substance abuse treatment program, his or her probation officer,  
18 his or her continuing health care or the continuing health care  
19 of another person who is dependent upon the person, his or her  
20 court-ordered community service responsibilities, or an ignition  
21 interlock service facility or (ii) if the defendant has a previous  
22 conviction under section 60-6,196, 60-6,197, or 60-6,197.06 or a  
23 previous administrative license revocation, to and from his or her  
24 residence for purposes of his or her employment, his or her school,  
25 or a substance abuse treatment program.

26 (c) Such Board of Pardons order shall remain in effect  
27 for a period of time not to exceed any period of revocation the

1 applicant is subject to at the time the application for a reprieve  
2 is made.

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

11 ~~(6) (5) Any person restricted to operating a motor~~  
12 ~~vehicle equipped with an ignition interlock device, pursuant to a~~  
13 ~~Board of Pardons order, who operates upon the highways of this~~  
14 ~~state a motor vehicle without such device or if the device has been~~  
15 ~~disabled, bypassed, or altered in any way, shall be punished as~~  
16 ~~provided in subsection (3) of section 83-1,127.02.~~

17 ~~(7) (6) If a person ordered to use a continuous alcohol~~  
18 ~~monitoring device and abstain from alcohol use pursuant to a court~~  
19 ~~order as provided in subsection (2) of this section violates the~~  
20 ~~provisions of such court order by removing, tampering with, or~~  
21 ~~otherwise bypassing the continuous alcohol monitoring device or~~  
22 ~~by consuming alcohol while required to use such device, he or~~  
23 ~~she shall have his or her ignition interlock permit revoked and~~  
24 ~~be unable to apply for reinstatement for the duration of the~~  
25 ~~revocation period imposed by the court.~~

26 ~~(8) (7) The director shall adopt and promulgate rules and~~  
27 ~~regulations regarding the approval of ignition interlock devices,~~

1 the means of installing ignition interlock devices, and the means  
2 of administering the ignition interlock permit program.

3 ~~(9)~~ (8)(a) The costs incurred in order to comply with  
4 the ignition interlock requirements of this section shall be paid  
5 directly to the ignition interlock provider by the person complying  
6 with an order for an ignition interlock permit and installation of  
7 an ignition interlock device, unless

8 (b) If the Department of Motor Vehicles has determined  
9 the person to be indigent and incapable of paying for the cost  
10 of installation, removal, or maintenance of the ignition interlock  
11 device in accordance with this section, such costs shall be paid  
12 out of the Department of Motor Vehicles Ignition Interlock Fund  
13 if such funds are available, according to rules and regulations  
14 adopted and promulgated by the department. Such costs shall also  
15 be paid out of the Department of Motor Vehicles Ignition Interlock  
16 Fund if the court or the Board of Pardons, whichever is applicable,  
17 has determined the person to be indigent and incapable of paying  
18 for the cost of installation, removal, or maintenance of the  
19 ignition interlock device in accordance with this subsection.  
20 section. The Department of Motor Vehicles Ignition Interlock Fund  
21 is created. Any money in the fund available for investment shall be  
22 invested by the state investment officer pursuant to the Nebraska  
23 Capital Expansion Act and the Nebraska State Funds Investment Act.

24 ~~(10)(a)~~ (9)(a)(i) An ignition interlock service facility  
25 shall notify the appropriate district probation office, ~~if the~~  
26 ~~order is made pursuant to subdivision (1)(a) of this section, or~~  
27 notify or the appropriate court, as applicable, if the order

1 is made pursuant to subdivision ~~(1)(b)~~ of this section, of  
2 any evidence of tampering with or circumvention of an ignition  
3 interlock device, or any attempts to do so, when the facility  
4 becomes aware of such evidence. Failure of the facility to  
5 provide notification as provided in this subdivision is a Class V  
6 misdemeanor.

7 (ii) An ignition interlock service facility shall notify  
8 the Department of Motor Vehicles, if the ignition interlock  
9 permit is issued pursuant to sections 60-498.01 to 60-498.04,  
10 of any evidence of tampering with or circumvention of an ignition  
11 interlock device, or any attempts to do so, when the facility  
12 becomes aware of such evidence. Failure of the facility to  
13 provide notification as provided in this subdivision is a Class V  
14 misdemeanor.

15 (b) If a district probation office receives evidence of  
16 tampering with or circumvention of an ignition interlock device, or  
17 any attempts to do so, from an ignition interlock service facility,  
18 the district probation office shall notify the appropriate court of  
19 such violation. The court shall immediately schedule an evidentiary  
20 hearing to be held within fourteen days after receiving such  
21 evidence, either from the district probation office or an ignition  
22 interlock service facility, and the court shall cause notice of  
23 the hearing to be given to the person operating a motor vehicle  
24 pursuant to an order under subsection (1) of this section. If  
25 the person who is the subject of such evidence does not appear  
26 at the hearing and show cause why the order made pursuant to  
27 subsection (1) of this section should remain in effect, the court

1 shall rescind the original order. Nothing in this subsection shall  
2 apply to an order made by the Board of Pardons pursuant to section  
3 83-1,127.02.

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

12 (10) Notwithstanding any other provision of law, the  
13 issuance of an ignition interlock permit by the Department of Motor  
14 Vehicles under section 60-498.01 or an order for the installation  
15 of an ignition interlock device and ignition interlock permit made  
16 pursuant to subsection (1) of this section as part of a conviction,  
17 as well as the administration of such court order by the Office  
18 of Probation Administration for the installation, maintenance, and  
19 removal of such device, as applicable, shall not be construed to  
20 create an order of probation when an order of probation has not  
21 been issued.

22 Sec. 41. (1) Any person who tampers with or circumvents  
23 an ignition interlock device installed under a court order or  
24 Department of Motor Vehicles order while the order is in effect or  
25 who operates a motor vehicle which is not equipped with an ignition  
26 interlock device in violation of a court order or Department of  
27 Motor Vehicles order shall be guilty of a Class IV felony.



1           (2) Any person who otherwise operates a motor vehicle  
2 equipped with an ignition interlock device in violation of the  
3 requirements of the court order or Department of Motor Vehicles  
4 order under which the device was installed shall be guilty of a  
5 Class III misdemeanor.

6           Sec. 42. This act becomes operative on January 1, 2012.

7           Sec. 43. Original sections 28-306, 28-394, 29-215,  
8 29-1917, 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03,  
9 37-1254.05, 37-1254.07, 37-1254.08, 37-1295, 53-180, 53-180.05,  
10 60-497.01, 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115,  
11 60-4,118.06, 60-4,129, 60-4,164, 60-601, 60-6,197, 60-6,197.02,  
12 60-6,197.03, 60-6,197.05, 60-6,197.09, 60-6,198, and 60-6,211.05,  
13 Reissue Revised Statutes of Nebraska, and sections 28-101,  
14 29-2259.01, and 37-1201, Revised Statutes Cumulative Supplement,  
15 2010, are repealed.