

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 675

Introduced by Pirsch, 4.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 28-106,
2 28-401.01, 60-498.02, 60-4,129, 60-601, 60-697, 60-698,
3 60-6,197.02, 60-6,197.03, and 60-6,198, Reissue Revised
4 Statutes of Nebraska, and section 28-101, Revised
5 Statutes Cumulative Supplement, 2010; to change penalties
6 for Class W misdemeanors; to prohibit having controlled
7 substances in bodily fluids; to provide penalties; to
8 provide affirmative defenses; to change provisions
9 relating to the duty to stop in the event of an accident
10 and driving under the influence of alcohol or drugs; to
11 harmonize provisions; and to repeal the original
12 sections.

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

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

3 28-101 Sections 28-101 to 28-1356 and section 4 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-106, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 28-106 (1) For purposes of the Nebraska Criminal Code and
8 any statute passed by the Legislature after the date of passage of
9 the code, misdemeanors are divided into seven classes which are
10 distinguished from one another by the following penalties which are
11 authorized upon conviction:

12 Class I misdemeanor..... Maximum - not more than one year
13 imprisonment, or one thousand dollars
14 fine, or both
15 Minimum - none

16 Class II misdemeanor..... Maximum - six months imprisonment, or
17 one thousand dollars fine, or both
18 Minimum - none

19 Class III misdemeanor..... Maximum - three months imprisonment,
20 or five hundred dollars fine, or both
21 Minimum - none

22 Class IIIA misdemeanor..... Maximum - seven days imprisonment, five
23 hundred dollars fine, or both

1 Minimum - none

2 Class IV misdemeanor..... Maximum - no imprisonment, five hun-

3 dred dollars fine

4 Minimum - one hundred dollars fine

5 Class V misdemeanor..... Maximum - no imprisonment, one hun-

6 dred dollars fine

7 Minimum - none

8 Class W misdemeanor..... Driving under the influence or implied

9 consent

10 First conviction

11 Maximum - sixty days imprisonment and

12 ~~five hundred dollars fine~~

13 one thousand dollars fine

14 Mandatory minimum - seven days

15 ~~imprisonment and four hundred dollars~~

16 imprisonment and eight hundred dollars

17 fine

18 Second conviction

19 Maximum - six months imprisonment and

20 ~~five hundred dollars fine~~

21 one thousand dollars fine

1 Mandatory minimum - thirty days
 2 ~~imprisonment and five hundred dollars~~
 3 imprisonment and one thousand dollars
 4 fine
 5 Third conviction
 6 Maximum - one year imprisonment and
 7 ~~six hundred dollars fine~~
 8 one thousand two hundred dollars
 9 fine
 10 Mandatory minimum - ninety days
 11 imprisonment
 12 ~~and six hundred dollars fine~~
 13 and one thousand two hundred
 14 dollars fine

15 (2) Sentences of imprisonment in misdemeanor cases shall
 16 be served in the county jail, except that in the following
 17 circumstances the court may, in its discretion, order that such
 18 sentences be served in institutions under the jurisdiction of the
 19 Department of Correctional Services:

20 (a) If the sentence is for a term of one year upon
 21 conviction of a Class I misdemeanor;

22 (b) If the sentence is to be served concurrently or
 23 consecutively with a term for conviction of a felony; or

1 (c) If the Department of Correctional Services has
2 certified as provided in section 28-105 as to the availability of
3 facilities and programs for short-term prisoners and the sentence is
4 for a term of six months or more.

5 Sec. 3. Section 28-401.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 28-401.01 Sections 28-401 to 28-456.01 and section 4 of
8 this act shall be known and may be cited as the Uniform Controlled
9 Substances Act.

10 Sec. 4. (1) Any person who provides a sample of bodily
11 fluid pursuant to section 60-6,197 containing any amount of a
12 Schedule I or Schedule II controlled substance as provided in section
13 28-405 commits an offense. A violation of this section is a Class I
14 misdemeanor.

15 (2) The fact that a person charged with violating this
16 section is or was legally entitled to use the controlled substance as
17 prescribed and directed by a physician shall constitute an absolute
18 affirmative defense against such charge with regard to the particular
19 controlled substance but no other substance and not with regard to a
20 charge under any other law.

21 Sec. 5. Section 60-498.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-498.02 (1) At the expiration of thirty days after the
24 date of arrest as described in subsection (2) of section 60-6,197 or
25 if after a hearing pursuant to section 60-498.01 the director finds

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

21 (2)(a) At the expiration of thirty days after an order of
22 revocation is entered under subdivision (1)(b) of this section, any
23 person whose operator's license has been administratively revoked for
24 a period of ninety days for submitting to a chemical test pursuant to
25 section 60-6,197 which disclosed the presence of a concentration of

1 alcohol in violation of section 60-6,196 may make application to the
2 director for issuance of an employment driving permit pursuant to
3 section 60-4,130.

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

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

25 (b) At the expiration of sixty days after an order of

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

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

23 (d) A person operating a motor vehicle pursuant to this
24 subsection shall only operate the motor vehicle to and from his or
25 her residence, his or her place of employment, his or her school, an

1 alcohol treatment program, or an ignition interlock service facility.
2 Such permit shall indicate for which purposes the permit may be used.
3 All permits issued pursuant to this subsection shall indicate that
4 the permit is not valid for the operation of any commercial motor
5 vehicle.

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

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

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

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

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

1 (c) If a charge is filed for a violation of section
2 60-6,196 pursuant to an arrest for which all proceedings were
3 dismissed under this subsection, the prosecuting attorney shall
4 notify the director by first-class mail or facsimile transmission of
5 the filing of such charge and the director may reinstate an
6 administrative license revocation under this section as of the date
7 that the director receives notification of the filing of the charge,
8 except that a revocation shall not be reinstated if it was dismissed
9 pursuant to section 60-498.01.

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

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

1 computerized records shows one or more prior administrative license
2 revocations on which final orders have been issued during the
3 immediately preceding ~~twelve-year~~twenty-year period at the time the
4 order of revocation is issued.

5 (2) Any person whose operator's license has been
6 suspended or revoked pursuant to any law of this state, except
7 section 43-3318, 60-498.02, 60-4,183, or 60-4,186, shall not be
8 eligible to receive an employment driving permit during the period of
9 such suspension or revocation.

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

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

23 (5) The director shall revoke the employment driving
24 permit for an individual upon receipt of an abstract of conviction,
25 other than a conviction which is based upon actions which resulted in

1 the application for such employment driving permit, indicating that
2 the individual committed an offense for which points are assessed
3 pursuant to section 60-4,182. If the permit is revoked in this
4 manner, the individual shall not be eligible to receive an employment
5 driving permit for the remainder of the period of suspension or
6 revocation of his or her operator's license.

7 Sec. 7. Section 60-601, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-601 Sections 60-601 to 60-6,379 and section 10 of this
10 act shall be known and may be cited as the Nebraska Rules of the
11 Road.

12 Sec. 8. Section 60-697, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 60-697 (1) The driver of any vehicle involved in an
15 accident upon either a public highway, private road, or private
16 drive, resulting in injury or death to any person, shall ~~(1)-(a)~~
17 immediately stop such vehicle at the scene of such accident and
18 ascertain the identity of all persons involved, ~~(2)-(b)~~ give his or
19 her name and address and the license number of the vehicle and
20 exhibit his or her operator's license to the person struck or the
21 occupants of any vehicle collided with, and ~~(3)-(c)~~ render to any
22 person injured in such accident reasonable assistance, including the
23 carrying of such person to a physician or surgeon for medical or
24 surgical treatment if it is apparent that such treatment is necessary
25 or is requested by the injured person.

1 (2) Any person violating any of the provisions of this
2 section shall upon conviction thereof be punished as provided in
3 section 60-698.

4 Sec. 9. Section 60-698, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 60-698 ~~Every person convicted of violating section 60-697~~
7 ~~relative to the duty to stop in the event of certain accidents shall~~
8 ~~be guilty of a Class IIIA felony.~~ (1) Any person convicted of
9 violating section 60-697 relative to the duty to stop in the event of
10 certain accidents shall be guilty of (a) a Class IIIA felony if the
11 accident resulted in an injury to any person other than a serious
12 bodily injury as defined in section 60-6,198 or death or (b) a Class
13 III felony if the accident resulted in the death of any person or
14 serious bodily injury as defined in section 60-6,198.

15 (2) The court shall, as part of the judgment of
16 conviction, order such person not to drive any motor vehicle for any
17 purpose for a period of not less than one year nor more than fifteen
18 years from the date ordered by the court, and shall order that the
19 operator's license of such person be revoked for a like period. The
20 order of the court shall be administered upon sentencing, upon final
21 judgment of any appeal or review, or upon the date that any probation
22 is revoked, whichever is later.

23 Sec. 10. In addition to any other penalty provided for
24 operating a motor vehicle in violation of section 60-6,196, if a
25 person has a prior conviction as defined in section 60-6,197.02 for a

1 violation punishable as a felony under section 60-6,197.03 and is
2 subsequently found to have operated or been in the actual physical
3 control of any motor vehicle when such person has (1) a concentration
4 of two-hundredths of one gram or more by weight of alcohol per one
5 hundred milliliters of his or her blood or (2) a concentration of
6 two-hundredths of one gram or more by weight of alcohol per two
7 hundred ten liters of his or her breath, such person shall be guilty
8 of a Class I misdemeanor.

9 Sec. 11. Section 60-6,197.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

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

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

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

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

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

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

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

1 or

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

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

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

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

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

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

20 (2) In any case charging a violation of section 60-6,196
21 or 60-6,197, the prosecutor or investigating agency shall use due
22 diligence to obtain the person's driving record from the Department
23 of Motor Vehicles and the person's driving record from other states
24 where he or she is known to have resided within the last ~~twelve~~
25 twenty years. The prosecutor shall certify to the court, prior to

1 sentencing, that such action has been taken. The prosecutor shall
2 present as evidence for purposes of sentence enhancement a court-
3 certified copy or an authenticated copy of a prior conviction in
4 another state. The court-certified or authenticated copy shall be
5 prima facie evidence of such prior conviction.

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

14 (4) A person arrested for a violation of section 60-6,196
15 or 60-6,197 before ~~May 14, 2009, the effective date of this act~~ but
16 sentenced pursuant to section 60-6,197.03 for such violation on or
17 after ~~May 14, 2009, the effective date of this act~~ shall be sentenced
18 according to the provisions of section 60-6,197.03 in effect on the
19 date of arrest.

20 Sec. 12. Section 60-6,197.03, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 60-6,197.03 Any person convicted of a violation of
23 section 60-6,196 or 60-6,197 shall be punished as follows:

24 (1) Except as provided in subdivision (2) of this
25 section, if such person has not had a prior conviction, such person

1 shall be guilty of a Class W misdemeanor, and the court shall, as
2 part of the judgment of conviction, order that the operator's license
3 of such person be revoked or impounded for a period of six months
4 from the date ordered by the court. If the court orders the person's
5 operator's license impounded, the court shall also order that the
6 person shall not operate a motor vehicle for a period of six months
7 and shall not order the installation of an ignition interlock device
8 or an ignition interlock permit. If the court orders the person's
9 operator's license revoked, the revocation period shall be for six
10 months. The revocation order shall require that the person not drive
11 for a period of thirty days, after which the court may order that the
12 person apply for an ignition interlock permit for the remainder of
13 the revocation period and have an ignition interlock device installed
14 on any motor vehicle he or she operates during the remainder of the
15 revocation period. Such revocation or impoundment shall be
16 administered upon sentencing, upon final judgment of any appeal or
17 review, or upon the date that any 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 that the
21 operator's license of such person be revoked for a period of sixty
22 days from the date ordered by the court. The court may order that
23 during the period of revocation the person apply for an ignition
24 interlock permit and the installation of an ignition interlock device
25 pursuant to section 60-6,211.05. Such order of probation or sentence

1 suspension shall also include, as one of its conditions, the payment
2 of a ~~four hundred dollar~~ an eight-hundred-dollar fine;

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

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

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

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

1 of any appeal or review, or upon the date that any probation is
2 revoked.

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

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

1 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 least
6 two years but not more than fifteen years from the date ordered by
7 the court. The revocation order shall require that the person not
8 drive for a period of forty-five days, after which the court may
9 order that during the period of revocation the person apply for an
10 ignition interlock permit and installation of an ignition interlock
11 device issued pursuant to section 60-6,211.05 and shall issue an
12 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
13 order of probation or sentence suspension shall also include, as
14 conditions, the payment of a ~~six-hundred-dollar~~ twelve-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 and, as
17 part of the current violation, had a concentration of fifteen-
18 hundredths of one gram or more by weight of alcohol per one hundred
19 milliliters of his or her blood or fifteen-hundredths of one gram or
20 more by weight of alcohol per two hundred ten liters of his or her
21 breath or refused to submit to a test as required under section
22 60-6,197, such person shall be guilty of a Class I misdemeanor, and
23 the court shall, as part of the judgment of conviction, revoke the
24 operator's license of such person for a period of at least one year
25 but not more than fifteen years from the date ordered by the court

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

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

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

1 breath or refused to submit to a test as required under section
2 60-6,197, such person shall be guilty of a Class IIIA felony, and the
3 court shall, as part of the judgment of conviction, revoke the
4 operator's license of such person for a period of fifteen years from
5 the date ordered by the court and shall issue an order pursuant to
6 section 60-6,197.01. Such revocation and order shall be administered
7 upon sentencing, upon final judgment of any appeal or review, or upon
8 the date that any probation is revoked. The court shall also sentence
9 such person to serve at least one hundred eighty days' imprisonment
10 in the city or county jail or an adult correctional 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 at least
15 five years but not more than fifteen years from the date ordered by
16 the court. The revocation order shall require that the person not
17 drive for a period of forty-five days, after which the court may
18 order that during the period of revocation the person apply for an
19 ignition interlock permit and installation of an ignition interlock
20 device issued pursuant to section 60-6,211.05 and shall issue an
21 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
22 order of probation or sentence suspension shall also include, as
23 conditions, the payment of a ~~one-thousand-dollar~~ two-thousand-dollar
24 fine and confinement in the city or county jail for sixty days;

25 (7) Except as provided in subdivision (8) of this

1 section, if such person has had three prior convictions, such person
2 shall be guilty of a Class IIIA felony, and the court shall, as part
3 of the judgment of conviction, order that the operator's license of
4 such person be revoked for a period of fifteen years from the date
5 ordered by the court and shall issue an order pursuant to section
6 60-6,197.01. Such orders shall be administered upon sentencing, upon
7 final judgment of any appeal or review, or upon the date that any
8 probation is revoked. The court shall also sentence such person to
9 serve at least one hundred eighty days' imprisonment in the city or
10 county jail or an adult correctional 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 fifteen
15 years from the date ordered by the court. The revocation order shall
16 require that the person not drive for a period of forty-five days,
17 after which the court may order that during the period of revocation
18 the person apply for an ignition interlock permit and installation of
19 an ignition interlock device issued pursuant to section 60-6,211.05
20 and shall issue an order pursuant to subdivision (1)(b) of section
21 60-6,197.01. Such order of probation or sentence suspension shall
22 also include, as conditions, the payment of a ~~one-thousand-dollar~~
23 two-thousand-dollar fine and confinement in the city or county jail
24 for ninety days;

25 (8) If such person has had three prior convictions and,

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

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

1 for one hundred twenty days;

2 (9) Except as provided in subdivision (10) of this
3 section, if such person has had four or more prior convictions, such
4 person shall be guilty of a Class III felony, and the court shall, as
5 part of the judgment of conviction, order the person to serve a
6 mandatory minimum of five years' imprisonment and that the operator's
7 license of such person be revoked for a period of fifteen years from
8 the date ordered by the court and shall issue an order pursuant to
9 section 60-6,197.01. Such orders shall be administered upon
10 sentencing, upon final judgment of any appeal or review, or upon the
11 date that any probation is revoked.

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

1 eighty days; and

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

17 If, after the five-year mandatory minimum imprisonment,
18 the court places such person on probation or suspends the sentence
19 for any reason, the court shall, as one of the conditions of
20 probation or sentence suspension, order that the operator's license
21 of such person be revoked for a period of fifteen years from the date
22 ordered by the court. The revocation order shall require that the
23 person not drive for a period of forty-five days, after which the
24 court may order that during the period of revocation the person apply
25 for an ignition interlock permit and installation of an ignition

1 interlock device issued pursuant to section 60-6,211.05 and shall
2 issue an order pursuant to subdivision (1)(b) of section 60-6,197.01.
3 Such order of probation or sentence suspension shall also include, as
4 conditions, the payment of a ~~one thousand dollar~~ two thousand dollar
5 fine and confinement in the city or county jail for one hundred
6 eighty days.

7 Sec. 13. Section 60-6,198, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-6,198 (1) Any person who, while operating a motor
10 vehicle in violation of section 60-6,196 or 60-6,197, proximately
11 causes serious bodily injury to another person or an unborn child of
12 a pregnant woman shall be guilty of a Class IIIA felony and the court
13 shall, as part of the judgment of conviction, order the person not to
14 drive any motor vehicle for any purpose for a period of at least
15 sixty days and not more than fifteen years from the date ordered by
16 the court and shall order that the operator's license of such person
17 be revoked for the same period.

18 (2) For purposes of this section, serious bodily injury
19 ~~shall mean~~ means bodily injury which involves a substantial risk of
20 death, a substantial risk of serious permanent disfigurement, or a
21 temporary or protracted loss or impairment of the function of any
22 part or organ of the body.

23 (3) For purposes of this section, unborn child ~~shall have~~
24 has the same meaning as in section 28-396.

25 Sec. 14. Original sections 28-106, 28-401.01, 60-498.02,

1 60-4,129, 60-601, 60-697, 60-698, 60-6,197.02, 60-6,197.03, and
2 60-6,198, Reissue Revised Statutes of Nebraska, and section 28-101,
3 Revised Statutes Cumulative Supplement, 2010, are repealed.