

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 875

Introduced by Howard, 9.

Read first time January 06, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-4,120.01,
2 60-4,123, 60-4,124, and 60-6,179.01, Reissue Revised
3 Statutes of Nebraska, and sections 60-4,182 and 60-601,
4 Revised Statutes Supplement, 2011; to prohibit use of
5 handheld wireless communication devices and interactive
6 wireless communication devices in school crossing zones
7 and maintenance, repair, or construction zones; to
8 harmonize provisions; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-4,120.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 60-4,120.01 (1)(a) Any person who is at least sixteen
4 years of age but less than eighteen years of age may be issued a
5 provisional operator's permit by the Department of Motor Vehicles.
6 The provisional operator's permit shall expire on the applicant's
7 eighteenth birthday.

8 (b) No provisional operator's permit shall be issued to
9 any person unless such person:

10 (i) Has possessed a valid LPD-learner's permit, LPE-
11 learner's permit, or SCP-school permit for at least a six-month
12 period beginning on the date of issuance of such person's LPD-
13 learner's permit, LPE-learner's permit, or SCP-school permit; and

14 (ii) Has not accumulated three or more points pursuant to
15 section 60-4,182 during the six-month period immediately preceding
16 the date of the application for the provisional operator's permit.

17 (c) The requirements for the provisional operator's
18 permit prescribed in subdivisions (2)(a) and (b) of this section may
19 be completed prior to the applicant's sixteenth birthday. A person
20 may apply for a provisional operator's permit and take the driving
21 test and the written examination, if required, at any time within
22 sixty days prior to his or her sixteenth birthday upon proof of age
23 in the manner provided in section 60-484.

24 (2) In order to obtain a provisional operator's permit,
25 the applicant shall present (a)(i) proof of successful completion of

1 a department-approved driver safety course which includes behind-the-
2 wheel driving specifically emphasizing (A) the effects of the
3 consumption of alcohol on a person operating a motor vehicle, (B)
4 occupant protection systems, (C) risk assessment, and (D) railroad
5 crossing safety and (ii) proof of successful completion of a written
6 examination and driving test administered by a driver safety course
7 instructor or (b) a certificate in a form prescribed by the
8 department, signed by a parent, guardian, or licensed driver at least
9 twenty-one years of age, verifying that the applicant has completed
10 fifty hours of lawful motor vehicle operation including at least ten
11 hours of motor vehicle operation between sunset and sunrise, under
12 conditions that reflect department-approved driver safety course
13 curriculum, with a parent, guardian, or adult at least twenty-one
14 years of age, who has a current Nebraska operator's license or who is
15 licensed in another state. If the applicant presents such a
16 certificate, the applicant shall be required to successfully complete
17 a driving test administered by the department. The written
18 examination shall be waived if the applicant has been issued a
19 Nebraska LPD-learner's permit or has been issued a Nebraska LPE-
20 learner's permit and such permit is valid or has been expired for no
21 more than one year. However, the department shall not waive the
22 written examination if the provisional operator's permit being
23 applied for contains a class or endorsement which is different from
24 the class or endorsement of the LPD-learner's or LPE-learner's
25 permit. Upon presentation by the applicant of a form prescribed by

1 the department showing successful completion of the driver safety
2 course, the written examination and driving test may be waived. Upon
3 presentation of the certificate, the written examination but not the
4 driving test may be waived. The examiner shall waive the written
5 examination and the driving test if the applicant has been issued a
6 school permit and such permit is valid or has expired no more than
7 one year prior to application. The written examination shall not be
8 waived if the provisional operator's permit being applied for
9 contains a class or endorsement which is different from the class or
10 endorsement of the school permit.

11 (3)(a) The holder of a provisional operator's permit
12 shall only operate a motor vehicle on the highways of this state
13 during the period beginning at 6 a.m. and ending at 12 midnight
14 except when he or she is en route to or from his or her residence to
15 his or her place of employment or a school activity. The holder of a
16 provisional operator's permit may operate a motor vehicle on the
17 highways of this state at any hour of the day or night if accompanied
18 by a parent, guardian, or adult at least twenty-one years of age, who
19 has a current Nebraska operator's license or who is licensed in
20 another state.

21 (b) The holder of a provisional operator's permit shall
22 only operate a motor vehicle on the highways of this state during the
23 first six months of holding the permit with no more than one
24 passenger who is not an immediate family member and who is under
25 nineteen years of age.

1 (c) The holder of a provisional operator's permit shall
2 not use any type of interactive wireless communication device while
3 operating a motor vehicle on the highways of this state.

4 (d) Enforcement of subdivisions (a), (b), and (c) of this
5 subsection shall be accomplished only as a secondary action when the
6 holder of the provisional operator's permit has been cited or charged
7 with a violation of some other law, except that if a violation of
8 subdivision (c) of this subsection occurred in a school crossing zone
9 as defined in section 60-658.01 or a maintenance, repair, or
10 construction zone established pursuant to section 60-6,188,
11 enforcement shall be accomplished pursuant to section 6 of this act.

12 (4) The county treasurer shall collect the fee and
13 surcharge prescribed in section 60-4,115 for the issuance of each
14 provisional operator's permit.

15 Sec. 2. Section 60-4,123, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-4,123 (1) Any person who is at least fifteen years of
18 age may apply for an LPD-learner's permit from the department. In
19 order to obtain an LPD-learner's permit, the applicant shall
20 successfully complete a written examination. A person may take the
21 written examination beginning sixty days prior to his or her
22 fifteenth birthday but shall not be issued a permit until he or she
23 is fifteen years of age. The written examination may be waived for
24 any person who has been issued an LPE-learner's permit, LPD-learner's
25 permit, or SCP-school permit that has been expired for no more than

1 one year.

2 (2) Upon successful completion of the written examination
3 and the payment of a fee and surcharge as prescribed in section
4 60-4,115, the applicant shall be issued an LPD-learner's permit as
5 provided in section 60-4,113. The permit shall be valid for twelve
6 months.

7 (3)(a) The holder of an LPD-learner's permit shall only
8 operate a motor vehicle on the highways of this state if he or she is
9 accompanied at all times by a licensed operator who is at least
10 twenty-one years of age and who has been licensed by this state or
11 another state and if he or she is actually occupying the seat beside
12 the licensed operator or, in the case of a motorcycle or moped, if he
13 or she is within visual contact of and under the supervision of, in
14 the case of a motorcycle, a licensed motorcycle operator or, in the
15 case of a moped, a licensed motor vehicle operator.

16 (b) The holder of an LPD-learner's permit shall not use
17 any type of interactive wireless communication device while operating
18 a motor vehicle on the highways of this state. Enforcement of this
19 subdivision shall be accomplished only as a secondary action when the
20 holder of the LPD-learner's permit has been cited or charged with a
21 violation of some other law, except that if a violation of this
22 subdivision occurred in a school crossing zone as defined in section
23 60-658.01 or a maintenance, repair, or construction zone established
24 pursuant to section 60-6,188, enforcement shall be accomplished
25 pursuant to section 6 of this act.

1 (4) The county treasurer shall collect the fee and
2 surcharge prescribed in section 60-4,115 for the issuance of each
3 LPD-learner's permit.

4 Sec. 3. Section 60-4,124, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 60-4,124 (1) A person who is younger than sixteen years
7 and three months of age but is older than fourteen years and two
8 months of age may be issued a school permit if such person lives a
9 distance of one and one-half miles or more from the school he or she
10 attends and either resides outside a city of the metropolitan,
11 primary, or first class or attends a school which is outside a city
12 of the metropolitan, primary, or first class and if such person has
13 held an LPE-learner's permit for two months. A school permit shall
14 not be issued until such person has demonstrated that he or she is
15 capable of successfully operating a motor vehicle, moped, or
16 motorcycle and has in his or her possession an issuance certificate
17 authorizing the county treasurer to issue a school permit. In order
18 to obtain an issuance certificate, the applicant shall present (a)
19 proof of successful completion of a department-approved driver safety
20 course which includes behind-the-wheel driving specifically
21 emphasizing (i) the effects of the consumption of alcohol on a person
22 operating a motor vehicle, (ii) occupant protection systems, (iii)
23 risk assessment, and (iv) railroad crossing safety and (b)(i) proof
24 of successful completion of a written examination and driving test
25 administered by a driver safety course instructor or (ii) a

1 certificate in a form prescribed by the department, signed by a
2 parent, guardian, or licensed driver at least twenty-one years of
3 age, verifying that the applicant has completed fifty hours of lawful
4 motor vehicle operation, under conditions that reflect department-
5 approved driver safety course curriculum, with a parent, guardian, or
6 adult at least twenty-one years of age, who has a current Nebraska
7 operator's license or who is licensed in another state. The
8 department may waive the written examination if the applicant has
9 been issued an LPE-learner's permit or LPD-learner's permit and if
10 such permit is valid or has expired no more than one year prior to
11 application. The written examination shall not be waived if the
12 permit being applied for contains a class or endorsement which is
13 different from the class or endorsement of the LPE-learner's permit.

14 (2) A person holding a school permit may operate a motor
15 vehicle, moped, or motorcycle:

16 (a) To and from where he or she attends school and
17 between schools of enrollment over the most direct and accessible
18 route by the nearest highway from his or her place of residence to
19 transport such person or any family member who resides with such
20 person to attend duly scheduled courses of instruction and
21 extracurricular or school-related activities at the school he or she
22 attends; or

23 (b) Under the personal supervision of a licensed
24 operator. Such licensed operator shall be at least twenty-one years
25 of age and licensed by this state or another state and shall actually

1 occupy the seat beside the permitholder or, in the case of a
2 motorcycle or moped, if the permitholder is within visual contact of
3 and under the supervision of, in the case of a motorcycle, a licensed
4 motorcycle operator or, in the case of a moped, a licensed motor
5 vehicle operator.

6 (3) The holder of a school permit shall not use any type
7 of interactive wireless communication device while operating a motor
8 vehicle on the highways of this state. Enforcement of this subsection
9 shall be accomplished only as a secondary action when the holder of
10 the school permit has been cited or charged with a violation of some
11 other law, except that if a violation of this subsection occurred in
12 a school crossing zone as defined in section 60-658.01 or a
13 maintenance, repair, or construction zone established pursuant to
14 section 60-6,188, enforcement shall be accomplished pursuant to
15 section 6 of this act.

16 (4) A person who is younger than sixteen years of age but
17 is over fourteen years of age may be issued an LPE-learner's permit,
18 which permit shall be valid for a period of three months. An LPE-
19 learner's permit shall not be issued until such person successfully
20 completes a written examination prescribed by the department and
21 demonstrates that he or she has sufficient powers of eyesight to
22 safely operate a motor vehicle, moped, or motorcycle.

23 (5)(a) While holding the LPE-learner's permit, the person
24 may operate a motor vehicle on the highways of this state if he or
25 she has seated next to him or her a person who is a licensed operator

1 or, in the case of a motorcycle or moped, if he or she is within
2 visual contact of and is under the supervision of a person who, in
3 the case of a motorcycle, is a licensed motorcycle operator or, in
4 the case of a moped, is a licensed motor vehicle operator. Such
5 licensed motor vehicle or motorcycle operator shall be at least
6 twenty-one years of age and licensed by this state or another state.

7 (b) The holder of an LPE-learner's permit shall not use
8 any type of interactive wireless communication device while operating
9 a motor vehicle on the highways of this state. Enforcement of this
10 subdivision shall be accomplished only as a secondary action when the
11 holder of the LPE-learner's permit has been cited or charged with a
12 violation of some other law, except that if a violation of this
13 subdivision occurred in a school crossing zone as defined in section
14 60-658.01 or a maintenance, repair, or construction zone established
15 pursuant to section 60-6,188, enforcement shall be accomplished
16 pursuant to section 6 of this act.

17 (6) The county treasurer shall collect the fee and
18 surcharge prescribed in section 60-4,115 from each successful
19 applicant for a school or LPE-learner's permit. All school permits
20 shall be subject to impoundment or revocation under the terms of
21 section 60-496. Any person who violates the terms of a school permit
22 shall be guilty of an infraction and shall not be eligible for
23 another school, farm, LPD-learner's, or LPE-learner's permit until he
24 or she has attained the age of sixteen years.

25 Sec. 4. Section 60-4,182, Revised Statutes Supplement,

1 2011, is amended to read:

2 60-4,182 In order to prevent and eliminate successive
3 traffic violations, there is hereby provided a point system dealing
4 with traffic violations as disclosed by the files of the director.
5 The following point system shall be adopted:

6 (1) Conviction of motor vehicle homicide - 12 points;

7 (2) Third offense drunken driving in violation of any
8 city or village ordinance or of section 60-6,196, as disclosed by the
9 records of the director, regardless of whether the trial court found
10 the same to be a third offense - 12 points;

11 (3) Failure to stop and render aid as required under
12 section 60-697 in the event of involvement in a motor vehicle
13 accident resulting in the death or personal injury of another - 6
14 points;

15 (4) Failure to stop and report as required under section
16 60-696 or any city or village ordinance in the event of a motor
17 vehicle accident resulting in property damage - 6 points;

18 (5) Driving a motor vehicle while under the influence of
19 alcoholic liquor or any drug or when such person has a concentration
20 of eight-hundredths of one gram or more by weight of alcohol per one
21 hundred milliliters of his or her blood or per two hundred ten liters
22 of his or her breath in violation of any city or village ordinance or
23 of section 60-6,196 - 6 points;

24 (6) Willful reckless driving in violation of any city or
25 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

1 (7) Careless driving in violation of any city or village
2 ordinance or of section 60-6,212 - 4 points;

3 (8) Negligent driving in violation of any city or village
4 ordinance - 3 points;

5 (9) Reckless driving in violation of any city or village
6 ordinance or of section 60-6,213 - 5 points;

7 (10) Speeding in violation of any city or village
8 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

9 (a) Not more than five miles per hour over the speed
10 limit - 1 point;

11 (b) More than five miles per hour but not more than ten
12 miles per hour over the speed limit - 2 points;

13 (c) More than ten miles per hour but not more than
14 thirty-five miles per hour over the speed limit - 3 points, except
15 that one point shall be assessed upon conviction of exceeding by not
16 more than ten miles per hour, two points shall be assessed upon
17 conviction of exceeding by more than ten miles per hour but not more
18 than fifteen miles per hour, and three points shall be assessed upon
19 conviction of exceeding by more than fifteen miles per hour but not
20 more than thirty-five miles per hour the speed limits provided for in
21 subdivision (1)(e), (f), (g), or (h) of section 60-6,186; and

22 (d) More than thirty-five miles per hour over the speed
23 limit - 4 points;

24 (11) Failure to yield to a pedestrian not resulting in
25 bodily injury to a pedestrian - 2 points;

1 (12) Failure to yield to a pedestrian resulting in bodily
2 injury to a pedestrian - 4 points;

3 (13) Using an interactive wireless communication device
4 punished under section 6 of this act or a handheld wireless
5 communication device in violation of section 6 of this act or section
6 60-6,179.01 - 3 points;

7 (14) Unlawful obstruction or interference of the view of
8 an operator in violation of section 60-6,256 - 1 point; and

9 (15) All other traffic violations involving the operation
10 of motor vehicles by the operator for which reports to the Department
11 of Motor Vehicles are required under sections 60-497.01 and 60-497.02
12 - 1 point.

13 Subdivision (15) of this section does not include
14 violations involving an occupant protection system pursuant to
15 section 60-6,270, parking violations, violations for operating a
16 motor vehicle without a valid operator's license in the operator's
17 possession, muffler violations, overwidth, overheight, or overlength
18 violations, motorcycle or moped protective helmet violations, or
19 overloading of trucks.

20 All such points shall be assessed against the driving
21 record of the operator as of the date of the violation for which
22 conviction was had. Points may be reduced by the department under
23 section 60-4,188.

24 In all cases, the forfeiture of bail not vacated shall be
25 regarded as equivalent to the conviction of the offense with which

1 the operator was charged.

2 The point system shall not apply to persons convicted of
3 traffic violations committed while operating a bicycle or an electric
4 personal assistive mobility device as defined in section 60-618.02.

5 Sec. 5. Section 60-601, Revised Statutes Supplement,
6 2011, is amended to read:

7 60-601 Sections 60-601 to 60-6,380 and section 6 of this
8 act shall be known and may be cited as the Nebraska Rules of the
9 Road.

10 Sec. 6. (1) Except as otherwise provided in subsection
11 (2) of this section, no person shall use a handheld wireless
12 communication device or an interactive wireless communication device
13 while operating a motor vehicle which is in motion in a school
14 crossing zone or a maintenance, repair, or construction zone.

15 (2) The prohibition in subsection (1) of this section
16 does not apply to:

17 (a) A person performing his or her official duties as a
18 law enforcement officer, a firefighter, an ambulance driver, or an
19 emergency medical technician; or

20 (b) A person operating a motor vehicle in an emergency
21 situation.

22 (3) Any person who violates this section shall be guilty
23 of a traffic infraction. Any person who is found guilty of a traffic
24 infraction under this section shall be assessed points on his or her
25 motor vehicle operator's license pursuant to section 60-4,182 and

1 shall be fined:

2 (a) Two hundred dollars for the first offense;

3 (b) Three hundred dollars for a second offense; and

4 (c) Five hundred dollars for a third and subsequent
5 offense.

6 (4) For purposes of this section:

7 (a) Handheld wireless communication device has the
8 meaning found in section 60-6,179.01; and

9 (b) Interactive wireless communication device has the
10 meaning found in section 60-470.02.

11 Sec. 7. Section 60-6,179.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-6,179.01 (1) Except as otherwise provided in
14 subsection (2) of this section or section 6 of this act, no person
15 shall use a handheld wireless communication device to read a written
16 communication, manually type a written communication, or send a
17 written communication while operating a motor vehicle which is in
18 motion.

19 (2) The prohibition in subsection (1) of this section
20 does not apply to:

21 (a) A person performing his or her official duties as a
22 law enforcement officer, a firefighter, an ambulance driver, or an
23 emergency medical technician; or

24 (b) A person operating a motor vehicle in an emergency
25 situation.

1 (3) Enforcement of this section by state or local law
2 enforcement agencies shall be accomplished only as a secondary action
3 when a driver of a motor vehicle has been cited or charged with a
4 traffic violation or some other offense.

5 (4) Any person who violates this section shall be guilty
6 of a traffic infraction. Any person who is found guilty of a traffic
7 infraction under this section shall be assessed points on his or her
8 motor vehicle operator's license pursuant to section 60-4,182 and
9 shall be fined:

10 (a) Two hundred dollars for the first offense;

11 (b) Three hundred dollars for a second offense; and

12 (c) Five hundred dollars for a third and subsequent
13 offense.

14 (5) For purposes of this section and section 6 of this
15 act:

16 (a)(i) Handheld wireless communication device means any
17 device that provides for written communication between two or more
18 parties and is capable of receiving, displaying, or transmitting
19 written communication.

20 (ii) Handheld wireless communication device includes, but
21 is not limited to, a mobile or cellular telephone, a text messaging
22 device, a personal digital assistant, a pager, or a laptop computer.

23 (iii) Handheld wireless communication device does not
24 include an electronic device that is part of the motor vehicle or
25 permanently attached to the motor vehicle or a handsfree wireless

1 communication device; and

2 (b) Written communication includes, but is not limited
3 to, a text message, an instant message, electronic mail, and Internet
4 web sites.

5 Sec. 8. Original sections 60-4,120.01, 60-4,123,
6 60-4,124, and 60-6,179.01, Reissue Revised Statutes of Nebraska, and
7 sections 60-4,182 and 60-601, Revised Statutes Supplement, 2011, are
8 repealed.