

AMENDMENTS TO LB 158

Introduced by Transportation and Telecommunications

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

3 Section 1. Section 60-6,197.01, Reissue Revised Statutes
4 of Nebraska, is amended to read:

5 60-6,197.01 (1) Upon conviction for a violation described
6 in section 60-6,197.06 or a second or subsequent violation of
7 section 60-6,196 or 60-6,197, the court shall impose either of the
8 following restrictions:

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

1 revocation or suspension, at the discretion of the court, of the
2 registration of such motor vehicle or motor vehicles, including the
3 license plates; and

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

21 (B) A registered owner who executes an affidavit pursuant
22 to subdivision (1) (a) (ii) (A) of this section which is acted upon
23 by the court and who fails to immediately report an unauthorized
24 use of the motor vehicle which is the subject of the affidavit is
25 guilty of a Class IV misdemeanor and may not file any additional
26 affidavits pursuant to subdivision (1) (a) (ii) (A) of this section.

27 (C) The department shall adopt and promulgate rules and

1 regulations to implement the provisions of subdivision (1)(a) of
2 this section; or

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

24 (2) In addition to the restrictions required by
25 subdivision (1)(b) of this section, the court may require a person
26 convicted of a second or subsequent violation of section 60-6,196
27 or 60-6,197 to use a continuous alcohol monitoring device and

1 abstain from alcohol use for a period of time not to exceed
2 the maximum term of license revocation ordered by the court. A
3 continuous alcohol monitoring device shall not be ordered for a
4 person convicted of a second or subsequent violation unless the
5 installation of an ignition interlock device is also required.

6 Sec. 2. Section 60-6,197.03, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 60-6,197.03 Any person convicted of a violation of
9 section 60-6,196 or 60-6,197 shall be punished as follows:

10 (1) Except as provided in subdivision (2) of this
11 section, if such person has not had a prior conviction, such person
12 shall be guilty of a Class W misdemeanor, and the court shall,
13 as part of the judgment of conviction, order that the operator's
14 license of such person be revoked for a period of six months from
15 the date ordered by the court. The revocation order shall require
16 that the person apply for an ignition interlock permit pursuant to
17 section 60-6,211.05 for the revocation period and have an ignition
18 interlock device installed on any motor vehicle he or she operates
19 during the revocation period. Such revocation shall be administered
20 upon sentencing, upon final judgment of any appeal or review, or
21 upon the date that any probation is revoked.

22 If the court places such person on probation or suspends
23 the sentence for any reason, the court shall, as one of the
24 conditions of probation or sentence suspension, order that the
25 operator's license of such person be revoked for a period of sixty
26 days from the date ordered by the court. The court shall order that
27 during the period of revocation the person apply for an ignition

1 interlock permit pursuant to section 60-6,211.05. Such order of
2 probation or sentence suspension shall also include, as one of its
3 conditions, the payment of a five-hundred-dollar fine;

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

20 If the court places such person on probation or suspends
21 the sentence for any reason, the court shall, as one of the
22 conditions of probation or sentence suspension, order that the
23 operator's license of such person be revoked for a period of one
24 year from the date ordered by the court. The revocation order shall
25 require that the person apply for an ignition interlock permit
26 pursuant to subdivision (1)(b) of section 60-6,197.01 for the
27 revocation period and have an ignition interlock device installed

1 on any motor vehicle he or she operates during the revocation
2 period. Such revocation shall be administered upon sentencing, upon
3 final judgment of any appeal or review, or upon the date that
4 any probation is revoked. Such order of probation or sentence
5 suspension shall also include, as conditions, the payment of a
6 five-hundred-dollar fine and either confinement in the city or
7 county jail for two days or the imposition of not less than one
8 hundred twenty hours of community service;

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

1 or review, or 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
6 ~~one year~~ eighteen months from the date ordered by the court. The
7 revocation order shall require that the person not drive for a
8 period of forty-five days, ~~after which the court shall order that~~
9 ~~during the period of revocation and that~~ the person apply for an
10 ignition interlock permit and installation of an ignition interlock
11 device for not less than a one-year period pursuant to section
12 60-6,211.05. ~~and~~ The court shall also issue an order pursuant
13 to subdivision (1)(b) of section 60-6,197.01. ~~Such~~ If the person
14 has an ignition interlock device installed as required under this
15 subdivision, the person shall not be eligible for reinstatement
16 of his or her operator's license until he or she has had the
17 ignition interlock device installed for the period ordered by the
18 court. The order of probation or sentence suspension shall also
19 include, as conditions, the payment of a five-hundred-dollar fine
20 and either confinement in the city or county jail for ten days
21 or the imposition of not less than two hundred forty hours of
22 community service;

23 (4) Except as provided in subdivision (6) of this
24 section, if such person has had two prior convictions, such person
25 shall be guilty of a Class W misdemeanor, and the court shall,
26 as part of the judgment of conviction, order that the operator's
27 license of such person be revoked for a period of fifteen years

1 from the date ordered by the court and shall issue an order
2 pursuant to section 60-6,197.01. Such orders shall be administered
3 upon sentencing, upon final judgment of any appeal or review, or
4 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 at
9 least two years but not more than fifteen years from the date
10 ordered by the court. The revocation order shall require that the
11 person not drive for a period of forty-five days, after which the
12 court may order that during the period of revocation the person
13 apply for an ignition interlock permit and installation of an
14 ignition interlock device issued pursuant to section 60-6,211.05
15 and shall issue an order pursuant to subdivision (1)(b) of section
16 60-6,197.01. Such order of probation or sentence suspension shall
17 also include, as conditions, the payment of a one-thousand-dollar
18 fine and confinement in the city or county jail for thirty days;

19 (5) If such person has had one prior conviction
20 and, as part of the current violation, had a concentration of
21 fifteen-hundredths of one gram or more by weight of alcohol per one
22 hundred milliliters of his or her blood or fifteen-hundredths of
23 one gram or more by weight of alcohol per two hundred ten liters
24 of his or her breath or refused to submit to a test as required
25 under section 60-6,197, such person shall be guilty of a Class
26 I misdemeanor, and the court shall, as part of the judgment of
27 conviction, order payment of a one-thousand-dollar fine and revoke

1 the operator's license of such person for a period of at least ~~one~~
2 ~~year~~ eighteen months but not more than fifteen years from the date
3 ordered by the court and shall issue an order pursuant to section
4 60-6,197.01. Such revocation and order shall be administered upon
5 sentencing, upon final judgment of any appeal or review, or upon
6 the date that any probation is revoked. The court shall also
7 sentence such person to serve at least ninety days' imprisonment in
8 the city or county jail or an 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 ~~one year~~ eighteen months but not more than fifteen years from
14 the date ordered by the court. The revocation order shall require
15 that the person not drive for a period of forty-five days, ~~after~~
16 ~~which the court may order~~ and that during the period of revocation
17 the person apply for an ignition interlock permit and installation
18 of an ignition interlock device for not less than a one-year
19 period issued pursuant to section 60-6,211.05. ~~and~~ The court shall
20 also issue an order pursuant to subdivision (1)(b) of section
21 60-6,197.01. ~~Such~~ If the person has an ignition interlock device
22 installed as required under this subdivision, the person shall not
23 be eligible for reinstatement of his or her operator's license
24 until he or she has had the ignition interlock device installed
25 for the period ordered by the court. The order of probation or
26 sentence suspension shall also include, as conditions, the payment
27 of a one-thousand-dollar fine and confinement in the city or county

1 jail for thirty days;

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

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 at
22 least five years but not more than fifteen years from the date
23 ordered by the court. The revocation order shall require that the
24 person not drive for a period of forty-five days, after which the
25 court may order that during the period of revocation the person
26 apply for an ignition interlock permit and installation of an
27 ignition interlock device issued pursuant to section 60-6,211.05

1 and shall issue an order pursuant to subdivision (1)(b) of section
2 60-6,197.01. Such order of probation or sentence suspension shall
3 also include, as conditions, the payment of a one-thousand-dollar
4 fine, confinement in the city or county jail for sixty days, and,
5 upon release from such confinement, the use of a continuous alcohol
6 monitoring device and abstention from alcohol use at all times for
7 no less than sixty days;

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

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
24 fifteen years from the date ordered by the court. The revocation
25 order shall require that the person not drive for a period of
26 forty-five days, after which the court may order that during the
27 period of revocation the person apply for an ignition interlock

1 permit and installation of an ignition interlock device issued
2 pursuant to section 60-6,211.05 and shall issue an order pursuant
3 to subdivision (1)(b) of section 60-6,197.01. Such order of
4 probation or sentence suspension shall also include, as conditions,
5 the payment of a two-thousand-dollar fine, confinement in the
6 city or county jail for ninety days, and, upon release from such
7 confinement, the use of a continuous alcohol monitoring device and
8 abstention from alcohol use at all times for no less than ninety
9 days;

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

23 If the court places such person on probation or suspends
24 the sentence for any reason, the court shall, as one of the
25 conditions of probation or sentence suspension, order that the
26 operator's license of such person be revoked for a period of
27 fifteen years from the date ordered by the court. The revocation

1 order shall require that the person not drive for a period of
2 forty-five days, after which the court may order that during the
3 period of revocation the person apply for an ignition interlock
4 permit and installation of an ignition interlock device issued
5 pursuant to section 60-6,211.05 and shall issue an order pursuant
6 to subdivision (1)(b) of section 60-6,197.01. Such order of
7 probation or sentence suspension shall also include, as conditions,
8 the payment of a two-thousand-dollar fine, confinement in the city
9 or county jail for one hundred twenty days, and, upon release from
10 such confinement, the use of a continuous alcohol monitoring device
11 and abstention from alcohol use at all times for no less than one
12 hundred twenty days;

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

23 If the court places such person on probation or suspends
24 the sentence for any reason, the court shall, as one of the
25 conditions of probation or sentence suspension, order that the
26 operator's license of such person be revoked for a period of
27 fifteen years from the date ordered by the court. The revocation

1 order shall require that the person not drive for a period of
2 forty-five days, after which the court may order that during the
3 period of revocation the person apply for an ignition interlock
4 permit and installation of an ignition interlock device issued
5 pursuant to section 60-6,211.05 and shall issue an order pursuant
6 to subdivision (1)(b) of section 60-6,197.01. Such order of
7 probation or sentence suspension shall also include, as conditions,
8 the payment of a two-thousand-dollar fine, confinement in the city
9 or county jail for one hundred eighty days, and, upon release from
10 such confinement, the use of a continuous alcohol monitoring device
11 and abstention from alcohol use at all times for no less than one
12 hundred eighty days; and

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

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

18 Sec. 3. This act becomes operative on July 1, 2013.

19 Sec. 4. Original section 60-6,197.01, Reissue Revised
20 Statutes of Nebraska, and section 60-6,197.03, Revised Statutes
21 Cumulative Supplement, 2012, are repealed.

22 Sec. 5. Since an emergency exists, this act takes effect
23 when passed and approved according to law.