

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 38

Introduced by Kolowski, 31.

Read first time January 08, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to motor vehicles; to amend sections 28-101
2 and 28-306, Revised Statutes Cumulative Supplement, 2014; to change
3 penalties for motor vehicle homicide; to provide penalties for
4 causing serious bodily injury to vulnerable road users; to define a
5 term; to harmonize provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1418.01, and 28-1429.03 and
4 section 3 of this act shall be known and may be cited as the Nebraska
5 Criminal Code.

6 Sec. 2. Section 28-306, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 28-306 (1) A person who causes the death of another unintentionally
9 while engaged in the operation of a motor vehicle in violation of the law
10 of the State of Nebraska or in violation of any city or village ordinance
11 commits motor vehicle homicide.

12 (2) Except as provided in subsection (3) or (4) of this section,
13 motor vehicle homicide is a Class I misdemeanor.

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

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

24 (c) If the proximate cause of the death of another is the operation
25 of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor
26 vehicle homicide is a Class II felony if the defendant has a prior
27 conviction for a violation of section 60-6,196 or 60-6,197.06, under a
28 city or village ordinance enacted in conformance with section 60-6,196,
29 or under a law of another state if, at the time of the conviction under
30 the law of such other state, the offense for which the defendant was
31 convicted would have been a violation of section 60-6,196. The court

1 shall, as part of the judgment of conviction, order the person not to
2 drive any motor vehicle for any purpose for a period of fifteen years and
3 shall order that the operator's license of such person be revoked for the
4 same period.

5 (d) An order of the court described in subdivision (b) or (c) of
6 this subsection shall be administered upon sentencing, upon final
7 judgment of any appeal or review, or upon the date that any probation is
8 revoked.

9 (4)(a) If the proximate cause of the death of another is the
10 operation of a motor vehicle in violation of section 60-6,212 and the
11 victim is a vulnerable road user, motor vehicle homicide is a Class IV
12 felony. The court shall, as part of the judgment of conviction, order the
13 person to complete not to exceed two hundred hours of community service
14 and order the person not to drive any motor vehicle for any purpose for a
15 period of at least six months and not more than fifteen years and shall
16 order that the operator's license of such person be revoked for the same
17 period. An order of the court described in this subsection 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 (b) For purposes of this subsection, vulnerable road user means:

21 (i) A pedestrian, including a person engaged in work upon a highway
22 or upon utility facilities along a highway or engaged in the provision of
23 emergency services within the right-of-way;

24 (ii) A person riding an animal; or

25 (iii) A person lawfully operating any of the following on a
26 crosswalk, highway, or shoulder of a highway:

27 (A) A bicycle;

28 (B) A farm tractor or similar vehicle designed primarily for farm
29 use;

30 (C) A moped;

31 (D) A motorcycle;

- 1 (E) A horse-drawn carriage;
- 2 (F) An electric personal assistive mobility device; or
- 3 (G) A wheelchair.

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

8 Sec. 3. A person who operates a motor vehicle in violation of
9 section 60-6,212 and causes serious bodily injury to a vulnerable road
10 user as defined in section 28-306 is guilty of a Class IV felony. The
11 court shall, as part of the judgment of conviction, order the person to
12 complete not to exceed two hundred hours of community service and order
13 the person not to drive any motor vehicle for any purpose for a period of
14 at least six months and not more than fifteen years and shall order that
15 the operator's license of such person be revoked for the same period. An
16 order of the court described in this section shall be administered upon
17 sentencing, upon final judgment of any appeal or review, or upon the date
18 that any probation is revoked.

19 Sec. 4. Original sections 28-101 and 28-306, Revised Statutes
20 Cumulative Supplement, 2014, are repealed.