

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 671

Introduced by Krist, 10.

Read first time January 03, 2018

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor vehicles; to amend section 79-609,
2 Reissue Revised Statutes of Nebraska, sections 60-4,120.01,
3 60-4,123, 60-4,124, 60-6,179.01, 60-6,265, 60-6,268, and 60-6,270,
4 Revised Statutes Cumulative Supplement, 2016, and section 60-6,267,
5 Revised Statutes Supplement, 2017; to change provisional operator's
6 permit restrictions from secondary offenses to primary offenses; to
7 change certain uses of interactive and handheld wireless
8 communication devices from secondary offenses to primary offenses as
9 prescribed; to update references to certain federal provisions; to
10 change violations of certain occupant protection system enforcement
11 requirements from secondary offenses to primary offenses; to change
12 a requirement relating to the wearing of occupant protection
13 systems; to prohibit school bus operators from using interactive
14 wireless communication devices as prescribed; to harmonize
15 provisions; to repeal the original sections; and to outright repeal
16 section 60-6,271, Reissue Revised Statutes of Nebraska.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-4,120.01, Revised Statutes Cumulative
2 Supplement, 2016, is amended to read:

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

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

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

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

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

23 (2) In order to obtain a provisional operator's permit, the
24 applicant shall present (a)(i) proof of successful completion of a
25 department-approved driver safety course which includes behind-the-wheel
26 driving specifically emphasizing (A) the effects of the consumption of
27 alcohol on a person operating a motor vehicle, (B) occupant protection
28 systems, (C) risk assessment, and (D) railroad crossing safety and (ii)
29 proof of successful completion of a written examination and driving test
30 administered by a driver safety course instructor or (b) a certificate in
31 a form prescribed by the department, signed by a parent, guardian, or

1 licensed driver at least twenty-one years of age, verifying that the
2 applicant has completed fifty hours of lawful motor vehicle operation
3 including at least ten hours of motor vehicle operation between sunset
4 and sunrise, under conditions that reflect department-approved driver
5 safety course curriculum, with a parent, guardian, or adult at least
6 twenty-one years of age, who has a current Nebraska operator's license or
7 who is licensed in another state. If the applicant presents such a
8 certificate, the applicant shall be required to successfully complete a
9 driving test administered by the department. The written examination
10 shall be waived if the applicant has been issued a Nebraska LPD-learner's
11 permit or has been issued a Nebraska LPE-learner's permit and such permit
12 is valid or has been expired for no more than one year. However, the
13 department shall not waive the written examination if the provisional
14 operator's permit being applied for contains a class or endorsement which
15 is different from the class or endorsement of the LPD-learner's or LPE-
16 learner's permit. Upon presentation by the applicant of a form prescribed
17 by the department showing successful completion of the driver safety
18 course, the written examination and driving test may be waived. Upon
19 presentation of the certificate, the written examination but not the
20 driving test may be waived. Licensing staff shall waive the written
21 examination and the driving test if the applicant has been issued a
22 school permit and such permit is valid or has expired no more than one
23 year prior to application. The written examination shall not be waived if
24 the provisional operator's permit being applied for contains a class or
25 endorsement which is different from the class or endorsement of the
26 school permit.

27 (3)(a) The holder of a provisional operator's permit shall only
28 operate a motor vehicle on the highways of this state during the period
29 beginning at 6 a.m. and ending at 12 midnight except when he or she is en
30 route to or from his or her residence to his or her place of employment
31 or a school activity. The holder of a provisional operator's permit may

1 operate a motor vehicle on the highways of this state at any hour of the
2 day or night if accompanied by a parent, guardian, or adult at least
3 twenty-one years of age, who has a current Nebraska operator's license or
4 who is licensed in another state.

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

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

12 ~~(d) Enforcement of subdivisions (a), (b), and (c) of this subsection~~
13 ~~shall be accomplished only as a secondary action when the holder of the~~
14 ~~provisional operator's permit has been cited or charged with a violation~~
15 ~~of some other law.~~

16 (4) Department personnel or the county treasurer shall collect the
17 fee and surcharge prescribed in section 60-4,115 for the issuance of each
18 provisional operator's permit.

19 Sec. 2. Section 60-4,123, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

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

30 (2) Upon successful completion of the written examination and the
31 payment of a fee and surcharge as prescribed in section 60-4,115, the

1 applicant shall be issued an LPD-learner's permit as provided in section
2 60-4,113. The permit shall be valid for twelve months.

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

16 (b) The holder of an LPD-learner's permit shall not use any type of
17 interactive wireless communication device while operating a motor vehicle
18 on the highways of this state. ~~Enforcement of this subdivision shall be~~
19 ~~accomplished only as a secondary action when the holder of the LPD-~~
20 ~~learner's permit has been cited or charged with a violation of some other~~
21 ~~law.~~

22 (4) Department personnel or the county treasurer shall collect the
23 fee and surcharge prescribed in section 60-4,115 for the issuance of each
24 LPD-learner's permit.

25 Sec. 3. Section 60-4,124, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 60-4,124 (1) A person who is younger than sixteen years and three
28 months of age but is older than fourteen years and two months of age may
29 be issued a school permit if such person either resides outside a city of
30 the metropolitan, primary, or first class or attends a school which is
31 outside a city of the metropolitan, primary, or first class and if such

1 person has held an LPE-learner's permit for two months. A school permit
2 shall not be issued until such person has demonstrated that he or she is
3 capable of successfully operating a motor vehicle, moped, or motorcycle
4 and has in his or her possession an issuance certificate authorizing the
5 county treasurer to issue a school permit. In order to obtain an issuance
6 certificate, the applicant shall present (a) proof of successful
7 completion of a department-approved driver safety course which includes
8 behind-the-wheel driving specifically emphasizing (i) the effects of the
9 consumption of alcohol on a person operating a motor vehicle, (ii)
10 occupant protection systems, (iii) risk assessment, and (iv) railroad
11 crossing safety and (b)(i) proof of successful completion of a written
12 examination and driving test administered by a driver safety course
13 instructor or (ii) a certificate in a form prescribed by the department,
14 signed by a parent, guardian, or licensed driver at least twenty-one
15 years of age, verifying that the applicant has completed fifty hours of
16 lawful motor vehicle operation, under conditions that reflect department-
17 approved driver safety course curriculum, with a parent, guardian, or
18 adult at least twenty-one years of age, who has a current Nebraska
19 operator's license or who is licensed in another state. The department
20 may waive the written examination if the applicant has been issued an
21 LPE-learner's permit or LPD-learner's permit and if such permit is valid
22 or has expired no more than one year prior to application. The written
23 examination shall not be waived if the permit being applied for contains
24 a class or endorsement which is different from the class or endorsement
25 of the LPE-learner's permit.

26 (2) A person holding a school permit may operate a motor vehicle,
27 moped, or motorcycle or an autocycle:

28 (a) To and from where he or she attends school and between schools
29 of enrollment over the most direct and accessible route by the nearest
30 highway from his or her place of residence to transport such person or
31 any family member who resides with such person to attend duly scheduled

1 courses of instruction and extracurricular or school-related activities
2 at the school he or she attends; or

3 (b) Under the personal supervision of a licensed operator. Such
4 licensed operator shall be at least twenty-one years of age and licensed
5 by this state or another state. A permitholder may only operate a motor
6 vehicle under this subdivision (2)(b) if (i) for all motor vehicles other
7 than autocycles, motorcycles, or mopeds, he or she is actually occupying
8 the seat beside the licensed operator, (ii) in the case of an autocycle,
9 he or she is actually occupying the seat beside or in front of the
10 licensed operator, (iii) in the case of a motorcycle, he or she is within
11 visual contact of and under the supervision of a licensed motorcycle
12 operator, or (iv) in the case of a moped, he or she is within visual
13 contact of and under the supervision of a licensed motor vehicle operator
14 ~~and shall (i) for all motor vehicles other than autocycles, motorcycles,~~
15 ~~or mopeds, actually occupy the seat beside the permitholder, (ii) in the~~
16 ~~case of an autocycle, actually occupy the seat beside or behind the~~
17 ~~permitholder, or (iii) in the case of a motorcycle or moped, if the~~
18 ~~permitholder is within visual contact of and under the supervision of, in~~
19 ~~the case of a motorcycle, a licensed motorcycle operator or, in the case~~
20 ~~of a moped, a licensed motor vehicle operator.~~

21 (3) The holder of a school permit shall not use any type of
22 interactive wireless communication device while operating a motor vehicle
23 on the highways of this state. ~~Enforcement of this subsection shall be~~
24 ~~accomplished only as a secondary action when the holder of the school~~
25 ~~permit has been cited or charged with a violation of some other law.~~

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

1 moped, or motorcycle or an autocycle.

2 (5)(a) While holding the LPE-learner's permit, the person may
3 operate a motor vehicle on the highways of this state if (i) for all
4 motor vehicles other than autocycles, motorcycles, or mopeds, he or she
5 has seated next to him or her a person who is a licensed operator, (ii)
6 in the case of an autocycle, he or she has seated next to or behind him
7 or her a person who is a licensed operator, ~~or~~ (iii) in the case of a
8 motorcycle ~~or moped~~, he or she is within visual contact of and is under
9 the supervision of a ~~person who, in the case of a motorcycle, is a~~
10 licensed motorcycle operator, or (iv) ~~in the case of a moped, he or she~~
11 is within visual contact of and under the supervision of ~~is~~ a licensed
12 motor vehicle operator. Such licensed motor vehicle or motorcycle
13 operator shall be at least twenty-one years of age and licensed by this
14 state or another state.

15 (b) The holder of an LPE-learner's permit shall not use any type of
16 interactive wireless communication device while operating a motor vehicle
17 on the highways of this state. ~~Enforcement of this subdivision shall be~~
18 ~~accomplished only as a secondary action when the holder of the LPE-~~
19 ~~learner's permit has been cited or charged with a violation of some other~~
20 ~~law.~~

21 (6) Department personnel or the county treasurer shall collect the
22 fee and surcharge prescribed in section 60-4,115 from each successful
23 applicant for a school or LPE-learner's permit. All school permits shall
24 be subject to impoundment or revocation under the terms of section
25 60-496. Any person who violates the terms of a school permit shall be
26 guilty of an infraction and shall not be eligible for another school,
27 farm, LPD-learner's, or LPE-learner's permit until he or she has attained
28 the age of sixteen years.

29 (7) Any person who holds a permit issued under this section and has
30 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)
31 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or

1 60-6,197.06 shall not be eligible for an ignition interlock permit.

2 Sec. 4. Section 60-6,179.01, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 60-6,179.01 (1) This section does not apply to an operator of a
5 commercial motor vehicle if section 60-6,179.02 applies.

6 (2) Except as otherwise provided in subsection (3) of this section,
7 no person shall use a handheld wireless communication device to read a
8 written communication, manually type a written communication, or send a
9 written communication while operating a motor vehicle which is in motion.

10 (3) The prohibition in subsection (2) of this section does not apply
11 to:

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

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

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

20 (4) ~~(5)~~ Any person who violates this section shall be guilty of a
21 traffic infraction. Any person who is found guilty of a traffic
22 infraction under this section shall be assessed points on his or her
23 motor vehicle operator's license pursuant to section 60-4,182 and shall
24 be fined:

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

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

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

28 (5) ~~(6)~~ For purposes of this section:

29 (a) Commercial motor vehicle has the same meaning as in section
30 75-362;

31 (b)(i) Handheld wireless communication device means any device that

1 provides for written communication between two or more parties and is
2 capable of receiving, displaying, or transmitting written communication.

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

6 (iii) Handheld wireless communication device does not include an
7 electronic device that is part of the motor vehicle or permanently
8 attached to the motor vehicle or a handsfree wireless communication
9 device; and

10 (c) Written communication includes, but is not limited to, a text
11 message, an instant message, electronic mail, and Internet web sites.

12 Sec. 5. Section 60-6,265, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 60-6,265 For purposes of sections 60-6,266 to 60-6,273:

15 (1) Occupant protection system means a system utilizing a lap belt,
16 a shoulder belt, or any combination of belts installed in a motor vehicle
17 which (a) restrains drivers and passengers and (b) conforms to Federal
18 Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and
19 571.210, as such standards existed on January 1, 2018 ~~2009~~, or to the
20 federal motor vehicle safety standards for passenger restraint systems
21 applicable for the motor vehicle's model year; and

22 (2) Three-point safety belt system means a system utilizing a
23 combination of a lap belt and a shoulder belt installed in a motor
24 vehicle which restrains drivers and passengers.

25 Sec. 6. Section 60-6,267, Revised Statutes Supplement, 2017, is
26 amended to read:

27 60-6,267 (1) Any person in Nebraska who drives any motor vehicle
28 which has or is required to have an occupant protection system or a
29 three-point safety belt system shall ensure that all children up to six
30 years of age being transported by such vehicle use a child passenger
31 restraint system of a type which meets Federal Motor Vehicle Safety

1 Standard 213 as developed by the National Highway Traffic Safety
2 Administration, as such standard existed on January 1, 2018 ~~2009~~, and
3 which is correctly installed in such vehicle.

4 (2) Any person in Nebraska who drives any motor vehicle which has or
5 is required to have an occupant protection system or a three-point safety
6 belt system shall ensure that all children six years of age and less than
7 eighteen years of age being transported by such vehicle use an occupant
8 protection system.

9 (3) Subsections (1) and (2) of this section apply to autocycles and
10 to every motor vehicle which is equipped with an occupant protection
11 system or is required to be equipped with restraint systems pursuant to
12 Federal Motor Vehicle Safety Standard 208, as such standard existed on
13 January 1, 2018 ~~2009~~, except taxicabs, mopeds, motorcycles, and any motor
14 vehicle designated by the manufacturer as a 1963 year model or earlier
15 which is not equipped with an occupant protection system.

16 (4) Whenever any licensed physician determines, through accepted
17 medical procedures, that use of a child passenger restraint system by a
18 particular child would be harmful by reason of the child's weight,
19 physical condition, or other medical reason, the provisions of subsection
20 (1) or (2) of this section shall be waived. The driver of any vehicle
21 transporting such a child shall carry on his or her person or in the
22 vehicle a signed written statement of the physician identifying the child
23 and stating the grounds for such waiver.

24 (5) The drivers of authorized emergency vehicles shall not be
25 subject to the requirements of subsection (1) or (2) of this section when
26 operating such authorized emergency vehicles pursuant to their
27 employment.

28 (6) A driver of a motor vehicle shall not be subject to the
29 requirements of subsection (1) or (2) of this section if the motor
30 vehicle is being operated in a parade or exhibition and the parade or
31 exhibition is being conducted in accordance with applicable state law and

1 local ordinances and resolutions.

2 (7) The Department of Transportation shall develop and implement an
3 ongoing statewide public information and education program regarding the
4 use of child passenger restraint systems and occupant protection systems
5 and the availability of distribution and discount programs for child
6 passenger restraint systems.

7 (8) All persons being transported by a motor vehicle operated by a
8 holder of a provisional operator's permit or a school permit shall use
9 such motor vehicle's occupant protection system or a three-point safety
10 belt system.

11 Sec. 7. Section 60-6,268, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 60-6,268 ~~(1)~~—A person violating any provision of subsection (1) or
14 (2) of section 60-6,267 shall be guilty of an infraction as defined in
15 section 29-431 and shall be fined twenty-five dollars for each violation.
16 The failure to provide a child restraint system for more than one child
17 in the same vehicle at the same time, as required in such subsection,
18 shall not be treated as a separate offense.

19 ~~(2) Enforcement of subsection (2) or (8) of section 60-6,267 shall~~
20 ~~be accomplished only as a secondary action when an operator of a motor~~
21 ~~vehicle has been cited or charged with a violation or some other offense~~
22 ~~unless the violation involves a person under the age of eighteen years~~
23 ~~riding in or on any portion of the vehicle not designed or intended for~~
24 ~~the use of passengers when the vehicle is in motion.~~

25 Sec. 8. Section 60-6,270, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 60-6,270 (1) Except as provided in subsection (2) or (3) of this
28 section, no driver shall operate a motor vehicle upon a highway or street
29 in this state unless the driver and each ~~front-seat~~ occupant in the motor
30 vehicle are wearing occupant protection systems and all occupant
31 protection systems worn are properly adjusted and fastened.

1 (2) Except as otherwise provided in subsection (3) of this section,
2 no driver shall operate an autocycle upon a highway or street of this
3 state unless the driver is wearing a three-point safety belt system and
4 it is properly adjusted and fastened.

5 (3) The following persons shall not be required to wear an occupant
6 protection system or a three-point safety belt system:

7 (a) A person who possesses written verification from a physician
8 that the person is unable to wear an occupant protection system or a
9 three-point safety belt system for medical reasons;

10 (b) A rural letter carrier of the United States Postal Service while
11 performing his or her duties as a rural letter carrier between the first
12 and last delivery points; and

13 (c) A member of an emergency medical service while involved in
14 patient care.

15 (4) For purposes of this section, motor vehicle means a vehicle
16 required by section 60-6,266 to be equipped with an occupant protection
17 system or a three-point safety belt system.

18 Sec. 9. Section 79-609, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 79-609 (1) The school board or board of education, after
21 consultation with a member of the Nebraska State Patrol, shall determine
22 the number of passengers that may be safely transported in each bus.

23 (2)(a) Any company or agency that provides transportation of pupils
24 by school bus and contracts directly with the pupils or their parents,
25 (b) the school board or board of education of the public schools, and (c)
26 the governing authority of any private, denominational, or parochial
27 school in this state shall provide, at least twice during each school
28 year to each pupil who is transported in a school bus, instruction in
29 safe riding practice and participation in emergency evacuation drills.

30 (3) The operator of a school bus equipped with an occupant
31 protection system as defined in section 60-6,265 shall wear such system

1 whenever the vehicle is in motion.

2 (4) The operator of a school bus, including any school bus which
3 transports pupils by direct contract with the pupils or their parents and
4 is not owned by or under contract with a school district or nonpublic
5 school, shall not, whenever the vehicle is in motion, use any type of
6 interactive wireless communication device as defined in section
7 60-470.02. This subsection does not apply to any dispatch communication
8 device or to an operator of a school bus if section 60-6,179.02 applies.

9 Sec. 10. Original section 79-609, Reissue Revised Statutes of
10 Nebraska, sections 60-4,120.01, 60-4,123, 60-4,124, 60-6,179.01,
11 60-6,265, 60-6,268, and 60-6,270, Revised Statutes Cumulative Supplement,
12 2016, and section 60-6,267, Revised Statutes Supplement, 2017, are
13 repealed.

14 Sec. 11. The following section is outright repealed: Section
15 60-6,271, Reissue Revised Statutes of Nebraska.