

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 271**

FINAL READING

Introduced by Morfeld, 46; Hansen, M., 26.

Read first time January 12, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to driving under the influence; to amend  
2 sections 29-901, 60-480, 60-498.01, 60-4,115, 60-6,197.05,  
3 60-6,197.06, 60-6,211.11, and 60-1513, Revised Statutes Cumulative  
4 Supplement, 2020; to adopt the 24/7 Sobriety Program Act; to  
5 authorize a 24/7 sobriety program permit for operating a motor  
6 vehicle as prescribed; to provide a penalty; to change provisions  
7 relating to a fund; to harmonize provisions; to provide an operative  
8 date; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 6 of this act shall be known and may be  
2 cited as the 24/7 Sobriety Program Act.

3           Sec. 2. (1) The Legislature finds and declares that there are many  
4 different approaches to assist individuals who struggle with substance  
5 abuse. Alternatives to incarceration should be considered in order to  
6 reduce the cost to the taxpayers, successfully rehabilitate offenders,  
7 ensure public safety, and minimize risk to society. Ignition interlock  
8 devices, which are required to be installed for those who are charged  
9 with or have been convicted of certain offenses, while effective, may be  
10 a financial burden to those who cannot afford the costs of installation  
11 or maintenance of such devices. In this state, ignition interlock devices  
12 have been proven to be an effective means of preventing drivers from  
13 operating motor vehicles while under the influence of alcohol. Other  
14 states have implemented 24/7 sobriety programs. States that implement  
15 24/7 sobriety programs have seen success with such programs in that  
16 participants have higher rates of maintaining sobriety, have lower rates  
17 of recidivism, are more likely to become productive members of society,  
18 and are less likely to be a continued public risk. Therefore, it is in  
19 the best interests of the State of Nebraska to establish 24/7 sobriety  
20 programs.

21           (2) A 24/7 sobriety program shall coordinate efforts among various  
22 state and local governmental agencies for finding and implementing  
23 alternatives to incarceration for offenses that involve operating a motor  
24 vehicle under the influence of alcohol or other drugs.

25           Sec. 3. For purposes of the 24/7 Sobriety Program Act:

26           (1) 24/7 sobriety program means a program that, as a condition of  
27 bail as ordered by a court, requires an individual who was arrested to:

28           (a) Totally abstain from alcohol and drugs for a specified period of  
29 time;

30           (b) Be subject to at least twice daily testing for alcohol according  
31 to best practice standards; and

- 1        (c) Be subject to drug testing if indicated by best practices;
- 2        (2) Department means the Department of Motor Vehicles;
- 3        (3) Director means the Director of Motor Vehicles; and
- 4        (4) Testing means a method to determine the presence of alcohol or
- 5        drugs.

6        Sec. 4. (1) Each county, through its county sheriff, may  
7        participate in a 24/7 sobriety program. If a sheriff is unwilling or  
8        unable to participate in a 24/7 sobriety program, the sheriff may  
9        designate an entity willing to provide the service.

10       (2) A 24/7 sobriety program shall meet at least the following  
11       minimum program requirements:

12       (a) Testing shall occur twice a day every day at a testing location  
13       or locations established by the county sheriff or a designated entity or  
14       continuously with a continuous alcohol monitoring device or similar  
15       technology;

16       (b) Participants shall enter into a participation agreement with the  
17       sheriff or designated entity; and

18       (c) Participants shall not consume alcohol or any drug not  
19       prescribed by a physician.

20       (3) If a test reveals a violation of the 24/7 sobriety program,  
21       sanctions imposed shall be immediate and certain and in accordance with  
22       best practices, as set forth in the participation agreement. A sixth  
23       sanction against a participant charged with an alcohol-related offense  
24       shall be removal from the 24/7 sobriety program and the participant shall  
25       be ineligible for further participation in the program for that case.  
26       Sanctions for new drug use may be more severe and shall be outlined in  
27       the participation agreement.

28       (4) The sheriff or designated entity shall establish a reasonable  
29       fee to cover the setup and operation of a 24/7 sobriety program for all  
30       participants. Reasonable program and testing fees may be charged. Testing  
31       costs may vary by participant depending on the technology employed.

1 Testing costs may be higher if the participant is involved in the program  
2 due to a non-alcohol, drug-related offense. All fees and costs charged  
3 pursuant to this subsection shall be set forth in the participation  
4 agreement. Such costs and fees may be waived by the court if the  
5 participant has made a showing to the court of an inability to pay.

6 (5) Each sheriff or designated entity shall separately account for  
7 all fees and costs collected by a 24/7 sobriety program.

8 (6) Nothing in the 24/7 Sobriety Program Act shall be construed to  
9 limit the ability of a court to utilize any form of technology to (a)  
10 detect the use or presence of alcohol or drugs or (b) comply with other  
11 forms of supervision deemed appropriate by the court.

12 Sec. 5. (1) If an individual has been arrested for a violation of  
13 section 60-6,196 or 60-6,197 or a city or village ordinance enacted in  
14 conformance with such sections and is participating in a 24/7 sobriety  
15 program, such individual may petition the court for an order allowing the  
16 individual to apply for a 24/7 sobriety program permit as set forth in  
17 section 6 of this act. A 24/7 sobriety program permit shall only be  
18 issued if the individual's operator's license has been revoked pursuant  
19 to section 60-498.01 for the pending offense.

20 (2) The court shall only issue an order under subsection (1) of this  
21 section if the court has sufficient proof the individual is enrolled in a  
22 24/7 sobriety program and has gone at least thirty consecutive days  
23 without any sanctions being imposed.

24 (3) If, after the issuance of an order allowing an individual to  
25 apply for a 24/7 sobriety program permit, the individual withdraws or is  
26 terminated from the 24/7 sobriety program, the court shall immediately  
27 issue an order revoking the 24/7 sobriety program permit and cause a copy  
28 of the order to be sent to the director.

29 (4) The holder of a commercial driver's license under the Motor  
30 Vehicle Operator's License Act is not eligible for a 24/7 sobriety  
31 program permit.

1       (5) A person shall be eligible to be issued a 24/7 sobriety program  
2 permit allowing operation of a motor vehicle if he or she is not subject  
3 to any other suspension, cancellation, required no-driving period, or  
4 period of revocation and has successfully completed the application for a  
5 24/7 sobriety program permit.

6       Sec. 6. (1) Upon receipt by the director of (a) a certified copy of  
7 a court order issued under subsection (1) of section 5 of this act, (b)  
8 sufficient evidence that the individual has surrendered the individual's  
9 operator's license to the department, and (c) payment of the fee provided  
10 in section 60-4,115, such individual may apply for a 24/7 sobriety  
11 program permit. All permits issued pursuant to this section shall  
12 indicate that the permit is not valid for the operation of a commercial  
13 motor vehicle.

14       (2) A 24/7 sobriety program permit shall only be available to a  
15 holder of a Class M or O operator's license.

16       (3) The director shall revoke a 24/7 sobriety program permit issued  
17 under this section upon receipt of an (a) abstract of conviction  
18 indicating that the individual's operating privileges have been revoked  
19 or (b) order from a court revoking the individual's 24/7 sobriety program  
20 permit.

21       Sec. 7. Section 29-901, Revised Statutes Cumulative Supplement,  
22 2020, is amended to read:

23       29-901 (1) Except as provided in subsection (2) of this section, any  
24 bailable defendant shall be ordered released from custody pending  
25 judgment on his or her personal recognizance unless the judge determines  
26 in the exercise of his or her discretion that such a release will not  
27 reasonably assure the appearance of the defendant as required or that  
28 such a release could jeopardize the safety and maintenance of evidence or  
29 the safety of victims, witnesses, or other persons in the community.

30       (2)(a) This subsection applies to any bailable defendant who is  
31 charged with one or more Class IIIA, IV, or V misdemeanors or violations

1 of city or county ordinances, except when:

2 (i) The victim is an intimate partner as defined in section 28-323;  
3 or

4 (ii) The defendant is charged with one or more violations of section  
5 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance  
6 with section 60-6,196 or 60-6,197.

7 (b) Any bailable defendant described in this subsection shall be  
8 ordered released from custody pending judgment on his or her personal  
9 recognizance or under other conditions of release, other than payment of  
10 a bond, unless:

11 (i) The defendant has previously failed to appear in the instant  
12 case or any other case in the previous six months;

13 (ii) The judge determines in the exercise of his or her discretion  
14 that such a release will not reasonably assure the appearance of the  
15 defendant as required or that such a release could jeopardize the safety  
16 and maintenance of evidence or the safety of the defendant, victims,  
17 witnesses, or other persons; and

18 (iii) The defendant was arrested pursuant to a warrant.

19 (3) The court shall consider all methods of bond and conditions of  
20 release to avoid pretrial incarceration. If the judge determines that the  
21 defendant shall not be released on his or her personal recognizance, the  
22 judge shall consider the defendant's financial ability to pay a bond and  
23 shall impose the least onerous of the following conditions that will  
24 reasonably assure the defendant's appearance or that will eliminate or  
25 minimize the risk of harm to others or the public at large:

26 (a) Place the defendant in the custody of a designated person or  
27 organization agreeing to supervise the defendant;

28 (b) Place restrictions on the travel, association, or place of abode  
29 of the defendant during the period of such release; or

30 (c) Require, at the option of any bailable defendant, either of the  
31 following:

1           (i) The execution of an appearance bond in a specified amount and  
2 the deposit with the clerk of the court in cash of a sum not to exceed  
3 ten percent of the amount of the bond, ninety percent of such deposit to  
4 be returned to the defendant upon the performance of the appearance or  
5 appearances and ten percent to be retained by the clerk as appearance  
6 bond costs, except that when no charge is subsequently filed against the  
7 defendant or if the charge or charges which are filed are dropped before  
8 the appearance of the defendant which the bond was to assure, the entire  
9 deposit shall be returned to the defendant. If the bond is subsequently  
10 reduced by the court after the original bond has been posted, no  
11 additional appearance bond costs shall be retained by the clerk. The  
12 difference in the appearance bond costs between the original bond and the  
13 reduced bond shall be returned to the defendant. In no event shall the  
14 deposit be less than twenty-five dollars. Whenever jurisdiction is  
15 transferred from a court requiring an appearance bond under this  
16 subdivision to another state court, the transferring court shall transfer  
17 the ninety percent of the deposit remaining after the appearance bond  
18 costs have been retained. No further costs shall be levied or collected  
19 by the court acquiring jurisdiction; or

20           (ii) The execution of a bail bond with such surety or sureties as  
21 shall seem proper to the judge or, in lieu of such surety or sureties, at  
22 the option of such person, a cash deposit of such sum so fixed,  
23 conditioned for his or her appearance before the proper court, to answer  
24 the offense with which he or she may be charged and to appear at such  
25 times thereafter as may be ordered by the proper court. The cash deposit  
26 shall be returned to the defendant upon the performance of all  
27 appearances.

28           (4) If the court requires the defendant to execute an appearance  
29 bond requiring the defendant to post money or requires the defendant to  
30 execute a bail bond, the court shall appoint counsel for the defendant if  
31 the court finds the defendant is financially unable to pay the amount

1 required and is indigent.

2 (5) If the amount of bail is deemed insufficient by the court before  
3 which the offense is pending, the court may order an increase of such  
4 bail and the defendant shall provide the additional undertaking, written  
5 or cash, to secure his or her release. All recognizances in criminal  
6 cases shall be in writing and be continuous from term to term until final  
7 judgment of the court in such cases and shall also extend, when the court  
8 has suspended execution of sentence for a limited time, as provided in  
9 section 29-2202, or, when the court has suspended execution of sentence  
10 to enable the defendant to apply for a writ of error to the Supreme Court  
11 or Court of Appeals, as provided in section 29-2301, until the period of  
12 suspension has expired. When two or more indictments or informations are  
13 returned against the same person at the same term of court, the  
14 recognizance given may be made to include all offenses charged therein.  
15 Each surety on such recognizance shall be required to justify under oath  
16 in a sum twice the amount of such recognizance and give the description  
17 of real estate owned by him or her of a value above encumbrance equal to  
18 the amount of such justification and shall name all other cases pending  
19 in which he or she is a surety. No one shall be accepted as surety on  
20 recognizance aggregating a sum in excess of his or her equity in the real  
21 estate, but such recognizance shall not constitute a lien on the real  
22 estate described therein until judgment is entered thereon against such  
23 surety.

24 (6) In order to assure compliance with the conditions of release  
25 referred to in subsection (3) of this section, the court may order a  
26 defendant to be supervised by a person, an organization, or a pretrial  
27 services program approved by the county board. A court shall waive any  
28 fees or costs associated with the conditions of release or supervision if  
29 the court finds the defendant is unable to pay for such costs.  
30 Eligibility for release or supervision by such pretrial release program  
31 shall under no circumstances be conditioned upon the defendant's ability



1 to pay. While under supervision of an approved entity, and in addition to  
2 the conditions of release referred to in subsection (3) of this section,  
3 the court may impose the following conditions:

4 (a) Periodic telephone contact by the defendant with the  
5 organization or pretrial services program;

6 (b) Periodic office visits by the defendant to the organization or  
7 pretrial services program;

8 (c) Periodic visits to the defendant's home by the organization or  
9 pretrial services program;

10 (d) Mental health or substance abuse treatment for the defendant,  
11 including residential treatment, if the defendant consents or agrees to  
12 the treatment;

13 (e) Periodic alcohol or drug testing of the defendant;

14 (f) Domestic violence counseling for the defendant, if the defendant  
15 consents or agrees to the counseling;

16 (g) Electronic or global-positioning monitoring of the defendant;  
17 and

18 (h) Participation in a 24/7 sobriety program under the 24/7 Sobriety  
19 Program Act; and

20 (i) ~~(h)~~ Any other supervision techniques shown by research to  
21 increase court appearance and public safety rates for defendants released  
22 on bond.

23 (7) The incriminating results of any drug or alcohol test or any  
24 information learned by a representative of an organization or program  
25 shall not be admissible in any proceeding, except for a proceeding  
26 relating to revocation or amendment of conditions of bond release.

27 Sec. 8. Section 60-480, Revised Statutes Cumulative Supplement,  
28 2020, is amended to read:

29 60-480 (1) Operators' licenses issued by the department pursuant to  
30 the Motor Vehicle Operator's License Act shall be classified as follows:

31 (a) Class 0 license. The operator's license which authorizes the

1 person to whom it is issued to operate on highways any motor vehicle  
2 except a commercial motor vehicle or motorcycle;

3 (b) Class M license. The operator's license or endorsement on a  
4 Class O license, provisional operator's permit, learner's permit, school  
5 permit, or commercial driver's license which authorizes the person to  
6 whom it is issued to operate a motorcycle on highways;

7 (c) CDL-commercial driver's license. The operator's license which  
8 authorizes the person to whom it is issued to operate a class of  
9 commercial motor vehicle or any motor vehicle, except a motorcycle, on  
10 highways;

11 (d) CLP-commercial learner's permit. A permit which when carried  
12 with a Class O license authorizes an individual to operate a class of  
13 commercial motor vehicle when accompanied by a holder of a valid  
14 commercial driver's license for purposes of behind-the-wheel training.  
15 When issued to a commercial driver's license holder, a CLP-commercial  
16 learner's permit serves as authorization for accompanied behind-the-wheel  
17 training in a commercial motor vehicle for which the holder's current  
18 commercial driver's license is not valid;

19 (e) RCDL-restricted commercial driver's license. The class of  
20 commercial driver's license which, when held with an annual seasonal  
21 permit, authorizes a seasonal commercial motor vehicle operator as  
22 defined in section 60-4,146.01 to operate any Class B Heavy Straight  
23 Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of  
24 a farm-related or ranch-related service industry as defined in such  
25 section within one hundred fifty miles of the employer's place of  
26 business or the farm or ranch currently being served as provided in such  
27 section or any other motor vehicle, except a motorcycle, on highways;

28 (f) POP-provisional operator's permit. A motor vehicle operating  
29 permit with restrictions issued pursuant to section 60-4,120.01 to a  
30 person who is at least sixteen years of age but less than eighteen years  
31 of age which authorizes the person to operate any motor vehicle except a

1 commercial motor vehicle or motorcycle;

2 (g) SCP-school permit. A permit issued to a student between fourteen  
3 years and two months of age and sixteen years of age for the purpose of  
4 driving in accordance with the requirements of section 60-4,124;

5 (h) FMP-farm permit. A permit issued to a person for purposes of  
6 operating farm tractors and other motorized implements of farm husbandry  
7 on highways in accordance with the requirements of section 60-4,126;

8 (i) LPD-learner's permit. A permit issued in accordance with the  
9 requirements of section 60-4,123 to a person at least fifteen years of  
10 age which authorizes the person to operate a motor vehicle, except a  
11 commercial motor vehicle, for learning purposes when accompanied by a  
12 licensed operator who is at least twenty-one years of age and who  
13 possesses a valid operator's license issued by this state or another  
14 state;

15 (j) LPE-learner's permit. A permit issued to a person at least  
16 fourteen years of age which authorizes the person to operate a motor  
17 vehicle, except a commercial motor vehicle, while learning to drive in  
18 preparation for application for a school permit;

19 (k) EDP-employment driving permit. A permit issued to a person which  
20 authorizes the person to operate a motor vehicle, except a commercial  
21 motor vehicle, pursuant to the requirements of sections 60-4,129 and  
22 60-4,130;

23 (l) IIP-ignition interlock permit. A permit issued to a person which  
24 authorizes the person to operate a motor vehicle, except a commercial  
25 motor vehicle, which is equipped with an ignition interlock device;

26 (m) SEP-seasonal permit. A permit issued to a person who holds a  
27 restricted commercial driver's license authorizing the person to operate  
28 a commercial motor vehicle, as prescribed by section 60-4,146.01, for no  
29 more than one hundred eighty consecutive days in any twelve-month period.  
30 The seasonal permit shall be valid and run from the date of original  
31 issuance of the permit for one hundred eighty days and from the date of

1 annual revalidation of the permit;~~and~~

2 (n) MHP-medical hardship driving permit. A permit issued to a person  
3 which authorizes the person to operate a motor vehicle, except a  
4 commercial motor vehicle, pursuant to the requirements of sections  
5 60-4,130.01 and 60-4,130.02; and -

6 (o) SPP-24/7 sobriety program permit. A permit issued to a person  
7 which authorizes the person to operate a motor vehicle, except a  
8 commercial motor vehicle, pursuant to the 24/7 Sobriety Program Act.

9 (2) For purposes of this section, motorcycle does not include an  
10 auticycle.

11 Sec. 9. Section 60-498.01, Revised Statutes Cumulative Supplement,  
12 2020, is amended to read:

13 60-498.01 (1) Because persons who drive while under the influence of  
14 alcohol present a hazard to the health and safety of all persons using  
15 the highways, a procedure is needed for the swift and certain revocation  
16 of the operator's license of any person who has shown himself or herself  
17 to be a health and safety hazard (a) by driving with an excessive  
18 concentration of alcohol in his or her body or (b) by driving while under  
19 the influence of alcohol.

20 (2) If a person arrested as described in subsection (2) of section  
21 60-6,197 refuses to submit to the chemical test of blood, breath, or  
22 urine required by section 60-6,197, the test shall not be given except as  
23 provided in section 60-6,210 for the purpose of medical treatment and the  
24 arresting peace officer, as agent for the director, shall verbally serve  
25 notice to the arrested person of the intention to immediately confiscate  
26 and revoke the operator's license of such person and that the revocation  
27 will be automatic fifteen days after the date of arrest. The arresting  
28 peace officer shall within ten days forward to the director a sworn  
29 report stating (a) that the person was arrested as described in  
30 subsection (2) of section 60-6,197 and the reasons for such arrest, (b)  
31 that the person was requested to submit to the required test, and (c)

1 that the person refused to submit to the required test. The director may  
2 accept a sworn report submitted electronically.

3 (3) If a person arrested as described in subsection (2) of section  
4 60-6,197 submits to the chemical test of blood or breath required by  
5 section 60-6,197, the test discloses the presence of alcohol in any of  
6 the concentrations specified in section 60-6,196, and the test results  
7 are available to the arresting peace officer while the arrested person is  
8 still in custody, the arresting peace officer, as agent for the director,  
9 shall verbally serve notice to the arrested person of the intention to  
10 immediately confiscate and revoke the operator's license of such person  
11 and that the revocation will be automatic fifteen days after the date of  
12 arrest. The arresting peace officer shall within ten days forward to the  
13 director a sworn report stating (a) that the person was arrested as  
14 described in subsection (2) of section 60-6,197 and the reasons for such  
15 arrest, (b) that the person was requested to submit to the required test,  
16 and (c) that the person submitted to a test, the type of test to which he  
17 or she submitted, and that such test revealed the presence of alcohol in  
18 a concentration specified in section 60-6,196. The director may accept a  
19 sworn report submitted electronically.

20 (4) On behalf of the director, the arresting peace officer  
21 submitting a sworn report under subsection (2) or (3) of this section  
22 shall serve notice of the revocation on the arrested person, and the  
23 revocation shall be effective fifteen days after the date of arrest. The  
24 notice of revocation shall contain a statement explaining the operation  
25 of the administrative license revocation procedure. The peace officer  
26 shall also provide to the arrested person information prepared and  
27 approved by the director describing how to request an administrative  
28 license revocation hearing or apply for an ignition interlock permit or a  
29 24/7 sobriety program permit ~~from the department~~. A petition for an  
30 administrative license revocation hearing must be completed and delivered  
31 to the department or postmarked within ten days after the person's arrest

1 or the person's right to an administrative license revocation hearing to  
2 contest the revocation will be foreclosed. The director shall prepare and  
3 approve the information form, the application for an ignition interlock  
4 permit, and the notice of revocation and shall provide them to law  
5 enforcement agencies.

6 If the person has an operator's license, the arresting peace officer  
7 shall take possession of the license and issue a temporary operator's  
8 license valid for fifteen days. The arresting peace officer shall forward  
9 the operator's license to the department along with the sworn report made  
10 under subsection (2) or (3) of this section.

11 (5)(a) If the results of a chemical test indicate the presence of  
12 alcohol in a concentration specified in section 60-6,196, the results are  
13 not available to the arresting peace officer while the arrested person is  
14 in custody, and the notice of revocation has not been served as required  
15 by subsection (4) of this section, the peace officer shall forward to the  
16 director a sworn report containing the information prescribed by  
17 subsection (3) of this section within ten days after receipt of the  
18 results of the chemical test. If the sworn report is not received within  
19 ten days, the revocation shall not take effect. The director may accept a  
20 sworn report submitted electronically.

21 (b) Upon receipt of the report, the director shall serve the notice  
22 of revocation on the arrested person by mail to the address appearing on  
23 the records of the director. If the address on the director's records  
24 differs from the address on the arresting peace officer's report, the  
25 notice shall be sent to both addresses. The notice of revocation shall  
26 contain a statement explaining the operation of the administrative  
27 license revocation procedure. The director shall also provide to the  
28 arrested person information prepared and approved by the director  
29 describing how to request an administrative license revocation hearing  
30 and an application for an ignition interlock permit. A petition for an  
31 administrative license revocation hearing must be completed and delivered

1 to the department or postmarked within ten days after the mailing of the  
2 notice of revocation or the person's right to an administrative license  
3 revocation hearing to contest the revocation will be foreclosed. The  
4 director shall prepare and approve the ignition interlock permit  
5 application and the notice of revocation. The revocation shall be  
6 effective fifteen days after the date of mailing.

7 (c) If the records of the director indicate that the arrested person  
8 possesses an operator's license, the director shall include with the  
9 notice of revocation a temporary operator's license which expires fifteen  
10 days after the date of mailing. Any arrested person who desires an  
11 administrative license revocation hearing and has been served a notice of  
12 revocation pursuant to this subsection shall return his or her operator's  
13 license with the petition requesting the hearing. If the operator's  
14 license is not included with the petition requesting the hearing, the  
15 director shall deny the petition.

16 (6)(a) An arrested person's operator's license confiscated pursuant  
17 to subsection (4) of this section shall be automatically revoked upon the  
18 expiration of fifteen days after the date of arrest, and the petition  
19 requesting the hearing shall be completed and delivered to the department  
20 or postmarked within ten days after the person's arrest. An arrested  
21 person's operator's license confiscated pursuant to subsection (5) of  
22 this section shall be automatically revoked upon the expiration of  
23 fifteen days after the date of mailing of the notice of revocation by the  
24 director, and the arrested person shall postmark or return to the  
25 director a petition within ten days after the mailing of the notice of  
26 revocation if the arrested person desires an administrative license  
27 revocation hearing. The petition shall be in writing and shall state the  
28 grounds on which the person is relying to prevent the revocation from  
29 becoming effective. The hearing and any prehearing conference may be  
30 conducted in person or by telephone, television, or other electronic  
31 means at the discretion of the director, and all parties may participate

1 by such means at the discretion of the director.

2 (b) The director shall conduct the hearing within twenty days after  
3 a petition is received by the director. Upon receipt of a petition, the  
4 director shall notify the petitioner of the date and location for the  
5 hearing by mail postmarked at least seven days prior to the hearing date.  
6 The filing of the petition shall not prevent the automatic revocation of  
7 the petitioner's operator's license at the expiration of the fifteen-day  
8 period. A continuance of the hearing to a date beyond the expiration of  
9 the temporary operator's license shall stay the expiration of the  
10 temporary license when the request for continuance is made by the  
11 director.

12 (c) At hearing the issues under dispute shall be limited to:

13 (i) In the case of a refusal to submit to a chemical test of blood,  
14 breath, or urine:

15 (A) Did the peace officer have probable cause to believe the person  
16 was operating or in the actual physical control of a motor vehicle in  
17 violation of section 60-6,196 or a city or village ordinance enacted in  
18 conformance with such section; and

19 (B) Did the person refuse to submit to or fail to complete a  
20 chemical test after being requested to do so by the peace officer; or

21 (ii) If the chemical test discloses the presence of alcohol in a  
22 concentration specified in section 60-6,196:

23 (A) Did the peace officer have probable cause to believe the person  
24 was operating or in the actual physical control of a motor vehicle in  
25 violation of section 60-6,196 or a city or village ordinance enacted in  
26 conformance with such section; and

27 (B) Was the person operating or in the actual physical control of a  
28 motor vehicle while having an alcohol concentration in violation of  
29 subsection (1) of section 60-6,196.

30 (7)(a) Any arrested person who submits an application for an  
31 ignition interlock permit in lieu of a petition for an administrative



1 license revocation hearing regarding the revocation of his or her  
2 operator's license pursuant to this section shall complete the  
3 application for an ignition interlock permit in which such person  
4 acknowledges that he or she understands that he or she will have his or  
5 her license administratively revoked pursuant to this section, that he or  
6 she waives his or her right to a hearing to contest the revocation, and  
7 that he or she understands that he or she is required to have an ignition  
8 interlock permit in order to operate a motor vehicle for the period of  
9 the revocation and shall include sufficient evidence that an ignition  
10 interlock device is installed on one or more vehicles that will be  
11 operated by the arrested person. Upon the arrested person's completion of  
12 the ignition interlock permit application process, the department shall  
13 issue the person an ignition interlock permit, subject to any applicable  
14 requirements and any applicable no-drive period if the person is  
15 otherwise eligible.

16 (b) An arrested person who is issued an ignition interlock permit  
17 pursuant to this section or a 24/7 sobriety program permit under the 24/7  
18 Sobriety Program Act as a condition of bail shall receive day-for-day  
19 credit for the period he or she has a valid ignition interlock permit or  
20 valid 24/7 sobriety program permit against the license revocation period  
21 imposed by the court arising from the same incident.

22 (c) If a person files a completed application for an ignition  
23 interlock permit, the person waives his or her right to contest the  
24 revocation of his or her operator's license.

25 (d) A person subject to administrative license revocation under  
26 sections 60-498.01 to 60-498.04 shall be eligible for a 24/7 sobriety  
27 program permit.

28 (8) Any person who has not petitioned for an administrative license  
29 revocation hearing and is subject to an administrative license revocation  
30 may immediately apply for an ignition interlock permit or a 24/7 sobriety  
31 program permit under the 24/7 Sobriety Program Act to use during the

1 applicable period of revocation set forth in section 60-498.02, subject  
2 to the following additional restrictions:

3 (a) If such person submitted to a chemical test which disclosed the  
4 presence of a concentration of alcohol in violation of section 60-6,196  
5 and has no prior administrative license revocations on which final orders  
6 have been issued during the immediately preceding fifteen-year period at  
7 the time the order of revocation is issued; τ

8 (i) The the ignition interlock permit will be immediately available  
9 fifteen days after the date of arrest or the date notice of revocation  
10 was provided to the arrested person, as long as he or she is otherwise  
11 eligible for an ignition interlock permit, upon completion of an  
12 application process for an ignition interlock permit; or

13 (ii) If such person is enrolled in a 24/7 sobriety program under the  
14 24/7 Sobriety Program Act and has not violated any program conditions for  
15 drugs or alcohol after thirty consecutive days of testing, such person  
16 may apply for a 24/7 sobriety program permit as a condition of bail under  
17 the 24/7 Sobriety Program Act. Such permit shall expire at the same time  
18 as the later of any administrative license revocation being served as  
19 determined by section 60-498.02;

20 (b) If such person submitted to a chemical test which disclosed the  
21 presence of a concentration of alcohol in violation of section 60-6,196  
22 and has one or more prior administrative license revocations on which  
23 final orders have been issued during the immediately preceding fifteen-  
24 year period at the time the order of revocation is issued; τ

25 (i) The the ignition interlock permit will be available beginning  
26 fifteen days after the date of arrest or the date notice of revocation  
27 was provided to the arrested person plus forty-five additional days of no  
28 driving, as long as he or she is otherwise eligible for an ignition  
29 interlock permit, upon completion of an application process for an  
30 ignition interlock permit; or

31 (ii) If such person is enrolled in the 24/7 sobriety program under

1 the 24/7 Sobriety Program Act and has not violated any program conditions  
2 for drugs or alcohol after thirty consecutive days of testing, such  
3 person may apply for a 24/7 sobriety program permit as a condition of  
4 bail under the 24/7 Sobriety Program Act any time after the expiration of  
5 the forty-five day no driving period referred to in subdivision (8)(b)(i)  
6 of this section;

7 (c) If such person refused to submit to a chemical test of blood,  
8 breath, or urine as required by section 60-6,197; ~~7~~

9 (i) The ~~the~~ ignition interlock permit will be available beginning  
10 fifteen days after the date of arrest plus ninety additional days of no  
11 driving, as long as he or she is otherwise eligible for an ignition  
12 interlock permit, upon completion of an application process for an  
13 ignition interlock permit; ~~or and~~

14 (ii) If such person is enrolled in the 24/7 sobriety program under  
15 the 24/7 Sobriety Program Act and has not violated any program conditions  
16 for drugs or alcohol after thirty consecutive days of testing, the person  
17 may apply for a 24/7 sobriety program permit as a condition of bond under  
18 the 24/7 Sobriety Program Act any time after the expiration of the  
19 ninety-day no driving period referred to in subdivision (8)(c)(i) of this  
20 section. Such permit shall expire at the same time as the later of any  
21 administrative license revocation being served as determined by section  
22 60-498.02; and

23 (d) Any person who petitions for an administrative license  
24 revocation hearing shall not be eligible for an ignition interlock permit  
25 or a 24/7 sobriety program permit unless ordered by the court at the time  
26 of sentencing for the related criminal proceeding.

27 (9) The director shall adopt and promulgate rules and regulations to  
28 govern the conduct of the administrative license revocation hearing and  
29 insure that the hearing will proceed in an orderly manner. The director  
30 may appoint a hearing officer to preside at the hearing, administer  
31 oaths, examine witnesses, take testimony, and report to the director. Any

1 motion for discovery filed by the petitioner shall entitle the prosecutor  
2 to receive full statutory discovery from the petitioner upon a  
3 prosecutor's request to the relevant court pursuant to section 29-1912 in  
4 any criminal proceeding arising from the same arrest. A copy of the  
5 motion for discovery shall be filed with the department and a copy  
6 provided to the prosecutor in the jurisdiction in which the petitioner  
7 was arrested. Incomplete discovery shall not stay the hearing unless the  
8 petitioner requests a continuance. All proceedings before the hearing  
9 officer shall be recorded. Upon receipt of the arresting peace officer's  
10 sworn report, the director's order of revocation has prima facie validity  
11 and it becomes the petitioner's burden to establish by a preponderance of  
12 the evidence grounds upon which the operator's license revocation should  
13 not take effect. The director shall make a determination of the issue  
14 within seven days after the conclusion of the hearing. A person whose  
15 operator's license is revoked following a hearing requested pursuant to  
16 this section may appeal the order of revocation as provided in section  
17 60-498.04.

18 (10) Any person who tampers with or circumvents an ignition  
19 interlock device installed pursuant to sections 60-498.01 to 60-498.04 or  
20 who operates a motor vehicle not equipped with a functioning ignition  
21 interlock device required pursuant to such sections or otherwise is in  
22 violation of the purposes for operation indicated on the ignition  
23 interlock permit under such sections shall, in addition to any possible  
24 criminal charges, have his or her revocation period and ignition  
25 interlock permit extended for six months beyond the end of the original  
26 revocation period.

27 (11) A person under the age of eighteen years who holds any license  
28 or permit issued under the Motor Vehicle Operator's License Act and has  
29 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)  
30 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197,  
31 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock

1 permit or a 24/7 sobriety program permit.

2 Sec. 10. Section 60-4,115, Revised Statutes Cumulative Supplement,  
3 2020, is amended to read:

4 60-4,115 (1) Fees for operators' licenses and state identification  
5 cards shall be collected by department personnel or the county treasurer  
6 and distributed according to the table in subsection (2) of this section,  
7 except for the ignition interlock permit and associated fees as outlined  
8 in subsection (4) of this section and the 24/7 sobriety program permit  
9 and associated fees as outlined in subsection (5) of this section. County  
10 officials shall remit the county portion of the fees collected to the  
11 county treasurer for placement in the county general fund. All other fees  
12 collected shall be remitted to the State Treasurer for credit to the  
13 appropriate fund.

14 (2) The fees provided in this subsection in the following dollar  
15 amounts apply for operators' licenses and state identification cards.

Document	Total Fee	Department		
		County General Fund	of Motor Vehicles Cash Fund	State General Fund
		State identification card:		
Valid for 1 year or less	5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years	10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years	14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years	19.00	2.75	8.00	8.25
Valid for more than 4 years for person under 21	24.00	2.75	10.25	11.00
Valid for 5 years	24.00	3.50	10.25	10.25

1	Replacement	11.00	2.75	6.00	2.25
2	Class 0 or M operator's				
3	license:				
4	Valid for 1 year or less	5.00	2.75	1.25	1.00
5	Valid for more than 1 year				
6	but not more than 2 years	10.00	2.75	4.00	3.25
7	Valid for more than 2 years				
8	but not more than 3 years	14.00	2.75	5.25	6.00
9	Valid for more than 3 years				
10	but not more than 4 years	19.00	2.75	8.00	8.25
11	Valid for 5 years	24.00	3.50	10.25	10.25
12	Bioptic or telescopic lens				
13	restriction:				
14	Valid for 1 year or less	5.00	0	5.00	0
15	Valid for more than 1 year				
16	but not more than 2 years	10.00	2.75	4.00	3.25
17	Replacement	11.00	2.75	6.00	2.25
18	Add, change, or remove class,				
19	endorsement, or restriction	5.00	0	5.00	0
20	Provisional operator's permit:				
21	Original	15.00	2.75	12.25	0
22	Bioptic or telescopic lens				
23	restriction:				
24	Valid for 1 year or less	5.00	0	5.00	0
25	Valid for more than 1 year				
26	but not more than 2 years	15.00	2.75	12.25	0
27	Replacement	11.00	2.75	6.00	2.25
28	Add, change, or remove class,				
29	endorsement, or restriction	5.00	0	5.00	0
30	LPD-learner's permit:				

1	Original	8.00	.25	5.00	2.75
2	Replacement	11.00	2.75	6.00	2.25
3	Add, change, or remove class,				
4	endorsement, or restriction	5.00	0	5.00	0
5	LPE-learner's permit:				
6	Original	8.00	.25	5.00	2.75
7	Replacement	11.00	2.75	6.00	2.25
8	Add, change, or remove class,				
9	endorsement, or restriction	5.00	0	5.00	0
10	School permit:				
11	Original	8.00	.25	5.00	2.75
12	Replacement	11.00	2.75	6.00	2.25
13	Add, change, or remove class,				
14	endorsement, or restriction	5.00	0	5.00	0
15	Farm permit:				
16	Original or renewal	5.00	.25	0	4.75
17	Replacement	5.00	.25	0	4.75
18	Temporary	5.00	.25	0	4.75
19	Add, change, or remove class,				
20	endorsement, or restriction	5.00	0	5.00	0
21	Driving permits:				
22	Employment	45.00	0	5.00	40.00
23	Medical hardship	45.00	0	5.00	40.00
24	Replacement	10.00	.25	5.00	4.75
25	Add, change, or remove class,				
26	endorsement, or restriction	5.00	0	5.00	0
27	Commercial driver's license:				
28	Valid for 1 year or less	11.00	1.75	5.00	4.25
29	Valid for more than 1 year				
30	but not more than 2 years	22.00	1.75	5.00	15.25

1	Valid for more than 2 years				
2	but not more than 3 years	33.00	1.75	5.00	26.25
3	Valid for more than 3 years				
4	but not more than 4 years	44.00	1.75	5.00	37.25
5	Valid for 5 years	55.00	1.75	5.00	48.25
6	Bioptic or telescopic lens				
7	restriction:				
8	Valid for one year or less	11.00	1.75	5.00	4.25
9	Valid for more than 1 year				
10	but not more than 2 years	22.00	1.75	5.00	15.25
11	Replacement	11.00	2.75	6.00	2.25
12	Add, change, or remove class,				
13	endorsement, or restriction	10.00	1.75	5.00	3.25
14	CLP-commercial learner's				
15	permit:				
16	Original or renewal	10.00	.25	5.00	4.75
17	Replacement	10.00	.25	5.00	4.75
18	Add, change, or remove class,				
19	endorsement, or restriction	10.00	.25	5.00	4.75
20	Seasonal permit:				
21	Original or renewal	10.00	.25	5.00	4.75
22	Replacement	10.00	.25	5.00	4.75
23	Add, change, or remove class,				
24	endorsement, or restriction	10.00	.25	5.00	4.75

25 (3) If the department issues an operator's license or a state  
 26 identification card and collects the fees, the department shall remit the  
 27 county portion of the fees to the State Treasurer for credit to the  
 28 Department of Motor Vehicles Cash Fund.

29 (4)(a) The fee for an ignition interlock permit shall be forty-five  
 30 dollars. Five dollars of the fee shall be remitted to the State Treasurer



1 for credit to the Department of Motor Vehicles Cash Fund. Forty dollars  
2 of the fee shall be remitted to the State Treasurer for credit to the  
3 Department of Motor Vehicles Ignition Interlock Fund.

4 (b) The fee for a replacement ignition interlock permit shall be  
5 eleven dollars. Two dollars and seventy-five cents of the fee shall be  
6 remitted to the county treasurer for credit to the county general fund.  
7 Six dollars of the fee shall be remitted to the State Treasurer for  
8 credit to the Department of Motor Vehicles Cash Fund. Two dollars and  
9 twenty-five cents of the fee shall be remitted to the State Treasurer for  
10 credit to the General Fund.

11 (c) The fee for adding, changing, or removing a class, endorsement,  
12 or restriction on an ignition interlock permit shall be five dollars. The  
13 fee shall be remitted to the State Treasurer for credit to the Department  
14 of Motor Vehicles Cash Fund.

15 (5)(a) The fee for a 24/7 sobriety program permit shall be forty-  
16 five dollars. Twenty-five dollars of the fee shall be remitted to the  
17 State Treasurer for credit to the Department of Motor Vehicles Cash Fund.  
18 Fifteen dollars of the fee shall be remitted to the State Treasurer for  
19 credit to the General Fund. Five dollars of the fee shall be remitted to  
20 the State Treasurer for credit to the county general fund of the  
21 participant's county of residence.

22 (b) The fee for a replacement 24/7 sobriety program permit shall be  
23 eleven dollars. Two dollars and seventy-five cents of the fee shall be  
24 remitted to the county treasurer for credit to the county general fund of  
25 the participant's county of residence. Six dollars of the fee shall be  
26 remitted to the State Treasurer for credit to the Department of Motor  
27 Vehicles Cash Fund. Two dollars and twenty-five cents of the fee shall be  
28 remitted to the State Treasurer for credit to the General Fund.

29 (c) The fee for adding, changing, or removing a class, endorsement,  
30 or restriction on a 24/7 sobriety program permit shall be five dollars.  
31 The fee shall be remitted to the State Treasurer for credit to the

1 Department of Motor Vehicles Cash Fund.

2       (6) ~~(5)~~ The department and its agents may collect an identity  
3 security surcharge to cover the cost of security and technology practices  
4 used to protect the identity of applicants for and holders of operators'  
5 licenses and state identification cards and to reduce identity theft,  
6 fraud, and forgery and counterfeiting of such licenses and cards to the  
7 maximum extent possible. The surcharge shall be in addition to all other  
8 required fees for operators' licenses and state identification cards. The  
9 amount of the surcharge shall be determined by the department. The  
10 surcharge shall not exceed eight dollars. The surcharge shall be remitted  
11 to the State Treasurer for credit to the Department of Motor Vehicles  
12 Cash Fund.

13       Sec. 11. Section 60-6,197.05, Revised Statutes Cumulative  
14 Supplement, 2020, is amended to read:

15       60-6,197.05 Any period of revocation imposed by the court for a  
16 violation of section 60-6,196 or 60-6,197 shall be reduced by any period  
17 of revocation imposed under sections 60-498.01 to 60-498.04, including  
18 any period during which a person has a valid ignition interlock permit or  
19 24/7 sobriety program permit, arising from the same incident.

20       Sec. 12. Section 60-6,197.06, Revised Statutes Cumulative  
21 Supplement, 2020, is amended to read:

22       60-6,197.06 (1) Unless otherwise provided by law pursuant to an  
23 ignition interlock permit or a 24/7 sobriety program permit, any person  
24 operating a motor vehicle on the highways or streets of this state while  
25 his or her operator's license has been revoked pursuant to section  
26 28-306, section 60-698, subdivision (4), (5), (6), (7), (8), (9), or (10)  
27 of section 60-6,197.03, or section 60-6,198, or pursuant to subdivision  
28 (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of  
29 section 60-6,197 as such subdivisions existed prior to July 16, 2004,  
30 shall be guilty of a Class IV felony, and the court shall, as part of the  
31 judgment of conviction, revoke the operator's license of such person for

1 a period of fifteen years from the date ordered by the court and shall  
2 issue an order pursuant to section 60-6,197.01. Such revocation and order  
3 shall be administered upon sentencing, upon final judgment of any appeal  
4 or review, or upon the date that any probation is revoked.

5 (2) If such person has had a conviction under this section or under  
6 subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197,  
7 as such subsections existed prior to July 16, 2004, and operates a motor  
8 vehicle on the highways or streets of this state while his or her  
9 operator's license has been revoked pursuant to such conviction, such  
10 person shall be guilty of a Class IIA felony, and the court shall, as  
11 part of the judgment of conviction, revoke the operator's license of such  
12 person for an additional period of fifteen years from the date ordered by  
13 the court and shall issue an order pursuant to section 60-6,197.01. Such  
14 revocation and order shall be administered upon sentencing, upon final  
15 judgment of any appeal or review, or upon the date that any probation is  
16 revoked.

17 Sec. 13. Section 60-6,211.11, Revised Statutes Cumulative  
18 Supplement, 2020, is amended to read:

19 60-6,211.11 (1) Except as provided in subsection (2) of this  
20 section, any person ordered by a court or the Department of Motor  
21 Vehicles to operate only motor vehicles equipped with an ignition  
22 interlock device is guilty of a Class I misdemeanor if he or she (a)  
23 tampers with or circumvents and then operates a motor vehicle equipped  
24 with an ignition interlock device installed under the court order or  
25 Department of Motor Vehicles order while the order is in effect or (b)  
26 operates a motor vehicle which is not equipped with an ignition interlock  
27 device in violation of the court order or Department of Motor Vehicles  
28 order.

29 (2) Any person ordered by a court or the Department of Motor  
30 Vehicles to operate only motor vehicles equipped with an ignition  
31 interlock device is guilty of a Class IV felony if he or she (a)(i)

1 tampers with or circumvents and then operates a motor vehicle equipped  
2 with an ignition interlock device installed under the court order or  
3 Department of Motor Vehicles order while the order is in effect or (ii)  
4 operates a motor vehicle which is not equipped with an ignition interlock  
5 device in violation of the court order or Department of Motor Vehicles  
6 order and (b) operates the motor vehicle as described in subdivision (a)  
7 (i) or (ii) of this subsection when he or she has a concentration of two-  
8 hundredths of one gram or more by weight of alcohol per one hundred  
9 milliliters of his or her blood or a concentration of two-hundredths of  
10 one gram or more by weight of alcohol per two hundred ten liters of his  
11 or her breath.

12 (3) Any person who otherwise operates a motor vehicle equipped with  
13 an ignition interlock device in violation of the requirements of the  
14 court order or Department of Motor Vehicles order under which the device  
15 was installed shall be guilty of a Class III misdemeanor.

16 (4) Any person who has applied for and received a 24/7 sobriety  
17 program permit and operates a motor vehicle when the person has a  
18 concentration of two-hundredths of one gram or more by weight of alcohol  
19 per one hundred milliliters of the person's blood or a concentration of  
20 two-hundredths of one gram or more by weight of alcohol per two hundred  
21 ten liters of the person's breath, or who refuses a chemical test, shall  
22 be guilty of a Class III misdemeanor.

23 Sec. 14. Section 60-1513, Revised Statutes Cumulative Supplement,  
24 2020, is amended to read:

25 60-1513 The Department of Motor Vehicles Cash Fund is hereby  
26 created. The fund shall be administered by the Director of Motor  
27 Vehicles. In addition to money credited or remitted to the fund, the fund  
28 may also receive reimbursement from counties. The fund shall be used by  
29 the Department of Motor Vehicles to carry out its duties as deemed  
30 necessary by the Director of Motor Vehicles, except that transfers from  
31 the fund to the General Fund or the Vehicle Title and Registration System

1 Replacement and Maintenance Cash Fund may be made at the direction of the  
2 Legislature. Any money in the Department of Motor Vehicles Cash Fund  
3 available for investment shall be invested by the state investment  
4 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
5 State Funds Investment Act.

6 The State Treasurer shall transfer five million three hundred  
7 twenty-five thousand dollars from the Department of Motor Vehicles Cash  
8 Fund to the Vehicle Title and Registration System Replacement and  
9 Maintenance Cash Fund on or before June 30, 2017, as directed by the  
10 budget administrator of the budget division of the Department of  
11 Administrative Services.

12 Sec. 15. This act becomes operative on July 1, 2022.

13 Sec. 16. Original sections 29-901, 60-480, 60-498.01, 60-4,115,  
14 60-6,197.05, 60-6,197.06, 60-6,211.11, and 60-1513, Revised Statutes  
15 Cumulative Supplement, 2020, are repealed.