

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 271**

Introduced by Morfeld, 46.

Read first time January 12, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to driving under the influence; to amend  
2 sections 29-3604 and 29-3605, Reissue Revised Statutes of Nebraska,  
3 and sections 29-901, 60-480, 60-498.01, 60-4,115, 60-6,197.05,  
4 60-6,197.06, and 60-6,211.11, Revised Statutes Cumulative  
5 Supplement, 2020; to adopt the 24/7 Sobriety Program Act; to  
6 authorize a 24/7 sobriety program permit for operating a motor  
7 vehicle as prescribed; to prohibit participation in pretrial  
8 diversion programs for certain driving under the influence and  
9 driver's license revocation violations; to provide penalties; to  
10 harmonize provisions; to provide operative dates; to repeal the  
11 original sections; and to declare an emergency.  
12 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, requires an individual who was arrested to:

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

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

1           (2) Department means the Department of Motor Vehicles;

2           (3) Director means the Director of Motor Vehicles; and

3           (4) Testing means a method to determine the presence of alcohol or  
4 drugs through a form of evidence-based technology.

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

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

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

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

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

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

27           (4) Participants shall be tested in accordance with subdivision (2)  
28 (a) of this section. Participants shall be responsible for the cost of  
29 any continuous alcohol monitoring device or similar technology, and such  
30 costs shall be set out in the participation agreement.

31           (5) The sheriff or designated entity shall establish a reasonable

1 fee to cover the setup and operation of a 24/7 sobriety program for all  
2 participants. Reasonable program and testing fees may be charged. Testing  
3 costs may vary by participant depending on the technology employed.  
4 Testing costs may be higher if the participant is involved in the program  
5 due to a non-alcohol, drug-related offense. All fees and costs charged  
6 pursuant to this subsection shall be set forth in the participation  
7 agreement. Such costs and fees may be waived by the court if the  
8 participant has made a showing to the court of an inability to pay.

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

11 Sec. 5. (1) If an individual has been arrested for a violation of  
12 section 60-6,196 or 60-6,197 or a city or village ordinance enacted in  
13 conformance with such sections and is participating in a 24/7 sobriety  
14 program, such individual may petition the court for an order allowing the  
15 individual to apply for a 24/7 sobriety program permit as set forth in  
16 section 6 of this act.

17 (2) The court shall only issue an order under subsection (1) of this  
18 section if the court has sufficient proof the individual is enrolled in a  
19 24/7 sobriety program and has gone at least thirty consecutive days  
20 without any sanctions being imposed.

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

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

29 Sec. 6. (1) Upon receipt by the director of (a) a certified copy of  
30 a court order issued under subsection (1) of section 5 of this act, (b)  
31 sufficient evidence that the individual has surrendered the individual's

1 operator's license to the department, and (c) payment of the fee provided  
2 in section 60-4,115, such individual may apply for a 24/7 sobriety  
3 program permit. All permits issued pursuant to this section shall  
4 indicate that the permit is not valid for the operation of a commercial  
5 motor vehicle.

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

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

13 Sec. 7. Section 29-901, Revised Statutes Cumulative Supplement,  
14 2020, is amended to read:

15 29-901 (1) Except as provided in subsection (2) of this section, any  
16 bailable defendant shall be ordered released from custody pending  
17 judgment on his or her personal recognizance unless the judge determines  
18 in the exercise of his or her discretion that such a release will not  
19 reasonably assure the appearance of the defendant as required or that  
20 such a release could jeopardize the safety and maintenance of evidence or  
21 the safety of victims, witnesses, or other persons in the community.

22 (2)(a) This subsection applies to any bailable defendant who is  
23 charged with one or more Class IIIA, IV, or V misdemeanors or violations  
24 of city or county ordinances, except when:

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

27 (ii) The defendant is charged with one or more violations of section  
28 60-6,196 or 60-6,197 or city or village ordinances enacted in conformance  
29 with section 60-6,196 or 60-6,197.

30 (b) Any bailable defendant described in this subsection shall be  
31 ordered released from custody pending judgment on his or her personal

1 recognizance or under other conditions of release, other than payment of  
2 a bond, unless:

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

5 (ii) The judge determines in the exercise of his or her discretion  
6 that such a release will not reasonably assure the appearance of the  
7 defendant as required or that such a release could jeopardize the safety  
8 and maintenance of evidence or the safety of the defendant, victims,  
9 witnesses, or other persons; and

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

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

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

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

22 (c) Require, at the option of any bailable defendant, either of the  
23 following:

24 (i) The execution of an appearance bond in a specified amount and  
25 the deposit with the clerk of the court in cash of a sum not to exceed  
26 ten percent of the amount of the bond, ninety percent of such deposit to  
27 be returned to the defendant upon the performance of the appearance or  
28 appearances and ten percent to be retained by the clerk as appearance  
29 bond costs, except that when no charge is subsequently filed against the  
30 defendant or if the charge or charges which are filed are dropped before  
31 the appearance of the defendant which the bond was to assure, the entire

1 deposit shall be returned to the defendant. If the bond is subsequently  
2 reduced by the court after the original bond has been posted, no  
3 additional appearance bond costs shall be retained by the clerk. The  
4 difference in the appearance bond costs between the original bond and the  
5 reduced bond shall be returned to the defendant. In no event shall the  
6 deposit be less than twenty-five dollars. Whenever jurisdiction is  
7 transferred from a court requiring an appearance bond under this  
8 subdivision to another state court, the transferring court shall transfer  
9 the ninety percent of the deposit remaining after the appearance bond  
10 costs have been retained. No further costs shall be levied or collected  
11 by the court acquiring jurisdiction; or

12 (ii) The execution of a bail bond with such surety or sureties as  
13 shall seem proper to the judge or, in lieu of such surety or sureties, at  
14 the option of such person, a cash deposit of such sum so fixed,  
15 conditioned for his or her appearance before the proper court, to answer  
16 the offense with which he or she may be charged and to appear at such  
17 times thereafter as may be ordered by the proper court. The cash deposit  
18 shall be returned to the defendant upon the performance of all  
19 appearances.

20 (4) If the court requires the defendant to execute an appearance  
21 bond requiring the defendant to post money or requires the defendant to  
22 execute a bail bond, the court shall appoint counsel for the defendant if  
23 the court finds the defendant is financially unable to pay the amount  
24 required and is indigent.

25 (5) If the amount of bail is deemed insufficient by the court before  
26 which the offense is pending, the court may order an increase of such  
27 bail and the defendant shall provide the additional undertaking, written  
28 or cash, to secure his or her release. All recognizances in criminal  
29 cases shall be in writing and be continuous from term to term until final  
30 judgment of the court in such cases and shall also extend, when the court  
31 has suspended execution of sentence for a limited time, as provided in

1 section 29-2202, or, when the court has suspended execution of sentence  
2 to enable the defendant to apply for a writ of error to the Supreme Court  
3 or Court of Appeals, as provided in section 29-2301, until the period of  
4 suspension has expired. When two or more indictments or informations are  
5 returned against the same person at the same term of court, the  
6 recognizance given may be made to include all offenses charged therein.  
7 Each surety on such recognizance shall be required to justify under oath  
8 in a sum twice the amount of such recognizance and give the description  
9 of real estate owned by him or her of a value above encumbrance equal to  
10 the amount of such justification and shall name all other cases pending  
11 in which he or she is a surety. No one shall be accepted as surety on  
12 recognizance aggregating a sum in excess of his or her equity in the real  
13 estate, but such recognizance shall not constitute a lien on the real  
14 estate described therein until judgment is entered thereon against such  
15 surety.

16 (6) In order to assure compliance with the conditions of release  
17 referred to in subsection (3) of this section, the court may order a  
18 defendant to be supervised by a person, an organization, or a pretrial  
19 services program approved by the county board. A court shall waive any  
20 fees or costs associated with the conditions of release or supervision if  
21 the court finds the defendant is unable to pay for such costs.  
22 Eligibility for release or supervision by such pretrial release program  
23 shall under no circumstances be conditioned upon the defendant's ability  
24 to pay. While under supervision of an approved entity, and in addition to  
25 the conditions of release referred to in subsection (3) of this section,  
26 the court may impose the following conditions:

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

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

31 (c) Periodic visits to the defendant's home by the organization or



1 pretrial services program;

2 (d) Mental health or substance abuse treatment for the defendant,  
3 including residential treatment, if the defendant consents or agrees to  
4 the treatment;

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

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

8 (g) Electronic or global-positioning monitoring of the defendant;

9 and

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

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

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

19 Sec. 8. Section 29-3604, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 29-3604 No person arrested for a violation of section 60-4,164,  
22 60-6,196, 60-6,197, 60-6,197.04, 60-6,211.01, or 60-6,211.02 after having  
23 once been convicted of a violation of any such section, nor any person  
24 arrested for a violation of section 60-6,196 or 60-6,197 punishable as  
25 provided in subdivision (2) of section 60-6,197.03, charged with a  
26 violation of section 60-6,196 or 60-6,197 shall be eligible for pretrial  
27 diversion under a program established pursuant to sections 29-3601 to  
28 29-3603 and 29-3605 to 29-3609.

29 Sec. 9. Section 29-3605, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 29-3605 For purposes of sections 29-3606 to 29-3609:

1 (1) Department means the Department of Motor Vehicles; and

2 (2) Minor traffic violation does not include leaving the scene of an  
3 accident under  $\tau$  sections 60-696 to 60-698; second or subsequent  
4 violations of  $\tau$  driving under the influence of alcoholic liquor or drugs  
5 under  $\tau$  sections 60-4,164, 60-6,196, and 60-6,211.01;  $\tau$  reckless driving  
6 or willful reckless driving under  $\tau$  sections 60-6,213 and 60-6,214;  
7 driving under the influence of alcoholic liquor under subdivision (2) of  
8 section 60-6,197.03; operating a motor vehicle during a revocation period  
9 under section 60-6,197.06;  $\tau$  participating in a speed competition under  $\tau$   
10 section 60-6,195;  $\tau$  operating a motor vehicle to avoid arrest under  $\tau$   
11 section 28-905; second or subsequent violations of  $\tau$  refusing a breath or  
12 blood test under  $\tau$  sections 60-4,164, 60-6,197, 60-6,197.04, and  
13 60-6,211.02;  $\tau$  driving on a suspended or revoked operator's license  
14 under  $\tau$  sections 60-4,107 to 60-4,110 and 60-6,197.06;  $\tau$  speeding twenty  
15 or more miles per hour over the speed limit;  $\tau$  operating a motor vehicle  
16 without insurance or other financial responsibility in violation of the  
17 Motor Vehicle Safety Responsibility Act;  $\tau$  any injury accident;  $\tau$  or any  
18 violation which is classified as a misdemeanor or a felony.

19 Sec. 10. Section 60-480, Revised Statutes Cumulative Supplement,  
20 2020, is amended to read:

21 60-480 (1) Operators' licenses issued by the department pursuant to  
22 the Motor Vehicle Operator's License Act shall be classified as follows:

23 (a) Class 0 license. The operator's license which authorizes the  
24 person to whom it is issued to operate on highways any motor vehicle  
25 except a commercial motor vehicle or motorcycle;

26 (b) Class M license. The operator's license or endorsement on a  
27 Class 0 license, provisional operator's permit, learner's permit, school  
28 permit, or commercial driver's license which authorizes the person to  
29 whom it is issued to operate a motorcycle on highways;

30 (c) CDL-commercial driver's license. The operator's license which  
31 authorizes the person to whom it is issued to operate a class of

1 commercial motor vehicle or any motor vehicle, except a motorcycle, on  
2 highways;

3 (d) CLP-commercial learner's permit. A permit which when carried  
4 with a Class O license authorizes an individual to operate a class of  
5 commercial motor vehicle when accompanied by a holder of a valid  
6 commercial driver's license for purposes of behind-the-wheel training.  
7 When issued to a commercial driver's license holder, a CLP-commercial  
8 learner's permit serves as authorization for accompanied behind-the-wheel  
9 training in a commercial motor vehicle for which the holder's current  
10 commercial driver's license is not valid;

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

20 (f) POP-provisional operator's permit. A motor vehicle operating  
21 permit with restrictions issued pursuant to section 60-4,120.01 to a  
22 person who is at least sixteen years of age but less than eighteen years  
23 of age which authorizes the person to operate any motor vehicle except a  
24 commercial motor vehicle or motorcycle;

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

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

31 (i) LPD-learner's permit. A permit issued in accordance with the

1 requirements of section 60-4,123 to a person at least fifteen years of  
2 age which authorizes the person to operate a motor vehicle, except a  
3 commercial motor vehicle, for learning purposes when accompanied by a  
4 licensed operator who is at least twenty-one years of age and who  
5 possesses a valid operator's license issued by this state or another  
6 state;

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

11 (k) EDP-employment driving permit. A permit issued to a person which  
12 authorizes the person to operate a motor vehicle, except a commercial  
13 motor vehicle, pursuant to the requirements of sections 60-4,129 and  
14 60-4,130;

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

18 (m) SEP-seasonal permit. A permit issued to a person who holds a  
19 restricted commercial driver's license authorizing the person to operate  
20 a commercial motor vehicle, as prescribed by section 60-4,146.01, for no  
21 more than one hundred eighty consecutive days in any twelve-month period.  
22 The seasonal permit shall be valid and run from the date of original  
23 issuance of the permit for one hundred eighty days and from the date of  
24 annual revalidation of the permit;~~and~~

25 (n) MHP-medical hardship driving permit. A permit issued to a person  
26 which authorizes the person to operate a motor vehicle, except a  
27 commercial motor vehicle, pursuant to the requirements of sections  
28 60-4,130.01 and 60-4,130.02; and -

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

1           (2) For purposes of this section, motorcycle does not include an  
2     autocycle.

3           Sec. 11. Section 60-498.01, Revised Statutes Cumulative Supplement,  
4     2020, is amended to read:

5           60-498.01 (1) Because persons who drive while under the influence of  
6     alcohol present a hazard to the health and safety of all persons using  
7     the highways, a procedure is needed for the swift and certain revocation  
8     of the operator's license of any person who has shown himself or herself  
9     to be a health and safety hazard (a) by driving with an excessive  
10    concentration of alcohol in his or her body or (b) by driving while under  
11    the influence of alcohol.

12          (2) If a person arrested as described in subsection (2) of section  
13    60-6,197 refuses to submit to the chemical test of blood, breath, or  
14    urine required by section 60-6,197, the test shall not be given except as  
15    provided in section 60-6,210 for the purpose of medical treatment and the  
16    arresting peace officer, as agent for the director, shall verbally serve  
17    notice to the arrested person of the intention to immediately confiscate  
18    and revoke the operator's license of such person and that the revocation  
19    will be automatic fifteen days after the date of arrest. The arresting  
20    peace officer shall within ten days forward to the director a sworn  
21    report stating (a) that the person was arrested as described in  
22    subsection (2) of section 60-6,197 and the reasons for such arrest, (b)  
23    that the person was requested to submit to the required test, and (c)  
24    that the person refused to submit to the required test. The director may  
25    accept a sworn report submitted electronically.

26          (3) If a person arrested as described in subsection (2) of section  
27    60-6,197 submits to the chemical test of blood or breath required by  
28    section 60-6,197, the test discloses the presence of alcohol in any of  
29    the concentrations specified in section 60-6,196, and the test results  
30    are available to the arresting peace officer while the arrested person is  
31    still in custody, the arresting peace officer, as agent for the director,

1 shall verbally serve notice to the arrested person of the intention to  
2 immediately confiscate and revoke the operator's license of such person  
3 and that the revocation will be automatic fifteen days after the date of  
4 arrest. The arresting peace officer shall within ten days forward to the  
5 director a sworn report stating (a) that the person was arrested as  
6 described in subsection (2) of section 60-6,197 and the reasons for such  
7 arrest, (b) that the person was requested to submit to the required test,  
8 and (c) that the person submitted to a test, the type of test to which he  
9 or she submitted, and that such test revealed the presence of alcohol in  
10 a concentration specified in section 60-6,196. The director may accept a  
11 sworn report submitted electronically.

12 (4) On behalf of the director, the arresting peace officer  
13 submitting a sworn report under subsection (2) or (3) of this section  
14 shall serve notice of the revocation on the arrested person, and the  
15 revocation shall be effective fifteen days after the date of arrest. The  
16 notice of revocation shall contain a statement explaining the operation  
17 of the administrative license revocation procedure. The peace officer  
18 shall also provide to the arrested person information prepared and  
19 approved by the director describing how to request an administrative  
20 license revocation hearing or apply for an ignition interlock permit or a  
21 24/7 sobriety program permit ~~from the department~~. A petition for an  
22 administrative license revocation hearing must be completed and delivered  
23 to the department or postmarked within ten days after the person's arrest  
24 or the person's right to an administrative license revocation hearing to  
25 contest the revocation will be foreclosed. The director shall prepare and  
26 approve the information form, the application for an ignition interlock  
27 permit, and the notice of revocation and shall provide them to law  
28 enforcement agencies.

29 If the person has an operator's license, the arresting peace officer  
30 shall take possession of the license and issue a temporary operator's  
31 license valid for fifteen days. The arresting peace officer shall forward

1 the operator's license to the department along with the sworn report made  
2 under subsection (2) or (3) of this section.

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

13 (b) Upon receipt of the report, the director shall serve the notice  
14 of revocation on the arrested person by mail to the address appearing on  
15 the records of the director. If the address on the director's records  
16 differs from the address on the arresting peace officer's report, the  
17 notice shall be sent to both addresses. The notice of revocation shall  
18 contain a statement explaining the operation of the administrative  
19 license revocation procedure. The director shall also provide to the  
20 arrested person information prepared and approved by the director  
21 describing how to request an administrative license revocation hearing  
22 and an application for an ignition interlock permit. A petition for an  
23 administrative license revocation hearing must be completed and delivered  
24 to the department or postmarked within ten days after the mailing of the  
25 notice of revocation or the person's right to an administrative license  
26 revocation hearing to contest the revocation will be foreclosed. The  
27 director shall prepare and approve the ignition interlock permit  
28 application and the notice of revocation. The revocation shall be  
29 effective fifteen days after the date of mailing.

30 (c) If the records of the director indicate that the arrested person  
31 possesses an operator's license, the director shall include with the

1 notice of revocation a temporary operator's license which expires fifteen  
2 days after the date of mailing. Any arrested person who desires an  
3 administrative license revocation hearing and has been served a notice of  
4 revocation pursuant to this subsection shall return his or her operator's  
5 license with the petition requesting the hearing. If the operator's  
6 license is not included with the petition requesting the hearing, the  
7 director shall deny the petition.

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

25 (b) The director shall conduct the hearing within twenty days after  
26 a petition is received by the director. Upon receipt of a petition, the  
27 director shall notify the petitioner of the date and location for the  
28 hearing by mail postmarked at least seven days prior to the hearing date.  
29 The filing of the petition shall not prevent the automatic revocation of  
30 the petitioner's operator's license at the expiration of the fifteen-day  
31 period. A continuance of the hearing to a date beyond the expiration of



1 the temporary operator's license shall stay the expiration of the  
2 temporary license when the request for continuance is made by the  
3 director.

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

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

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

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

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

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

22 (7)(a) Any arrested person who submits an application for an  
23 ignition interlock permit in lieu of a petition for an administrative  
24 license revocation hearing regarding the revocation of his or her  
25 operator's license pursuant to this section shall complete the  
26 application for an ignition interlock permit in which such person  
27 acknowledges that he or she understands that he or she will have his or  
28 her license administratively revoked pursuant to this section, that he or  
29 she waives his or her right to a hearing to contest the revocation, and  
30 that he or she understands that he or she is required to have an ignition  
31 interlock permit in order to operate a motor vehicle for the period of

1 the revocation and shall include sufficient evidence that an ignition  
2 interlock device is installed on one or more vehicles that will be  
3 operated by the arrested person. Upon the arrested person's completion of  
4 the ignition interlock permit application process, the department shall  
5 issue the person an ignition interlock permit, subject to any applicable  
6 requirements and any applicable no-drive period if the person is  
7 otherwise eligible.

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

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

17 (8) Any person who has not petitioned for an administrative license  
18 revocation hearing and is subject to an administrative license revocation  
19 may immediately apply for an ignition interlock permit or a 24/7 sobriety  
20 program permit under the 24/7 Sobriety Program Act to use during the  
21 applicable period of revocation set forth in section 60-498.02, subject  
22 to the following additional restrictions:

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

28 (i) The ~~the~~ ignition interlock permit will be immediately available  
29 fifteen days after the date of arrest or the date notice of revocation  
30 was provided to the arrested person, as long as he or she is otherwise  
31 eligible for an ignition interlock permit, upon completion of an

1 application process for an ignition interlock permit; or

2 (ii) If such person is enrolled in a 24/7 sobriety program under the  
3 24/7 Sobriety Program Act and has not violated any program conditions for  
4 drugs or alcohol after thirty consecutive days of testing, such person  
5 may apply for a 24/7 sobriety program permit as a condition of bail under  
6 the 24/7 Sobriety Program Act. Such permit shall expire at the same time  
7 as the later of any administrative license revocation being served as  
8 determined by section 60-498.02;

9 (b) If such person submitted to a chemical test which disclosed the  
10 presence of a concentration of alcohol in violation of section 60-6,196  
11 and has one or more prior administrative license revocations on which  
12 final orders have been issued during the immediately preceding fifteen-  
13 year period at the time the order of revocation is issued: 7

14 (i) The ~~the~~ ignition interlock permit will be available beginning  
15 fifteen days after the date of arrest or the date notice of revocation  
16 was provided to the arrested person plus forty-five additional days of no  
17 driving, as long as he or she is otherwise eligible for an ignition  
18 interlock permit, upon completion of an application process for an  
19 ignition interlock permit; or

20 (ii) If such person is enrolled in the 24/7 sobriety program under  
21 the 24/7 Sobriety Program Act and has not violated any program conditions  
22 for drugs or alcohol after thirty consecutive days of testing, such  
23 person may apply for a 24/7 sobriety program permit as a condition of  
24 bail under the 24/7 Sobriety Program Act any time after the expiration of  
25 the forty-five day no driving period referred to in subdivision (8)(b)(i)  
26 of this section;

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

29 (i) The ~~the~~ ignition interlock permit will be available beginning  
30 fifteen days after the date of arrest plus ninety additional days of no  
31 driving, as long as he or she is otherwise eligible for an ignition

1 interlock permit, upon completion of an application process for an  
2 ignition interlock permit; or and

3 (ii) If such person is enrolled in the 24/7 sobriety program under  
4 the 24/7 Sobriety Program Act and has not violated any program conditions  
5 for drugs or alcohol after thirty consecutive days of testing, the person  
6 may apply for a 24/7 sobriety program permit as a condition of bond under  
7 the 24/7 Sobriety Program Act any time after the expiration of the  
8 ninety-day no driving period referred to in subdivision (8)(c)(i) of this  
9 section. Such permit shall expire at the same time as the later of any  
10 administrative license revocation being served as determined by section  
11 60-498.02; and

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

16 (9) The director shall adopt and promulgate rules and regulations to  
17 govern the conduct of the administrative license revocation hearing and  
18 insure that the hearing will proceed in an orderly manner. The director  
19 may appoint a hearing officer to preside at the hearing, administer  
20 oaths, examine witnesses, take testimony, and report to the director. Any  
21 motion for discovery filed by the petitioner shall entitle the prosecutor  
22 to receive full statutory discovery from the petitioner upon a  
23 prosecutor's request to the relevant court pursuant to section 29-1912 in  
24 any criminal proceeding arising from the same arrest. A copy of the  
25 motion for discovery shall be filed with the department and a copy  
26 provided to the prosecutor in the jurisdiction in which the petitioner  
27 was arrested. Incomplete discovery shall not stay the hearing unless the  
28 petitioner requests a continuance. All proceedings before the hearing  
29 officer shall be recorded. Upon receipt of the arresting peace officer's  
30 sworn report, the director's order of revocation has prima facie validity  
31 and it becomes the petitioner's burden to establish by a preponderance of

1 the evidence grounds upon which the operator's license revocation should  
2 not take effect. The director shall make a determination of the issue  
3 within seven days after the conclusion of the hearing. A person whose  
4 operator's license is revoked following a hearing requested pursuant to  
5 this section may appeal the order of revocation as provided in section  
6 60-498.04.

7 (10) Any person who tampers with or circumvents an ignition  
8 interlock device installed pursuant to sections 60-498.01 to 60-498.04 or  
9 who operates a motor vehicle not equipped with a functioning ignition  
10 interlock device required pursuant to such sections or otherwise is in  
11 violation of the purposes for operation indicated on the ignition  
12 interlock permit under such sections shall, in addition to any possible  
13 criminal charges, have his or her revocation period and ignition  
14 interlock permit extended for six months beyond the end of the original  
15 revocation period.

16 (11) A person under the age of eighteen years who holds any license  
17 or permit issued under the Motor Vehicle Operator's License Act and has  
18 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)  
19 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197,  
20 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock  
21 permit or a 24/7 sobriety program permit.

22 Sec. 12. Section 60-4,115, Revised Statutes Cumulative Supplement,  
23 2020, is amended to read:

24 60-4,115 (1) Fees for operators' licenses and state identification  
25 cards shall be collected by department personnel or the county treasurer  
26 and distributed according to the table in subsection (2) of this section,  
27 except for the ignition interlock permit and associated fees as outlined  
28 in subsection (4) of this section and the 24/7 sobriety program permit  
29 and associated fees as outlined in subsection (5) of this section. County  
30 officials shall remit the county portion of the fees collected to the  
31 county treasurer for placement in the county general fund. All other fees

1 collected shall be remitted to the State Treasurer for credit to the  
2 appropriate fund.

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

Document	Total Fee	Department		
		County General Fund	of Motor Vehicles Cash Fund	State General Fund
9 State identification card:				
10 Valid for 1 year or less	5.00	2.75	1.25	1.00
11 Valid for more than 1 year				
12 but not more than 2 years	10.00	2.75	4.00	3.25
13 Valid for more than 2 years				
14 but not more than 3 years	14.00	2.75	5.25	6.00
15 Valid for more than 3 years				
16 but not more than 4 years	19.00	2.75	8.00	8.25
17 Valid for more than 4 years				
18 for person under 21	24.00	2.75	10.25	11.00
19 Valid for 5 years	24.00	3.50	10.25	10.25
20 Replacement	11.00	2.75	6.00	2.25
21 Class 0 or M operator's				
22 license:				
23 Valid for 1 year or less	5.00	2.75	1.25	1.00
24 Valid for more than 1 year				
25 but not more than 2 years	10.00	2.75	4.00	3.25
26 Valid for more than 2 years				
27 but not more than 3 years	14.00	2.75	5.25	6.00
28 Valid for more than 3 years				
29 but not more than 4 years	19.00	2.75	8.00	8.25
30 Valid for 5 years	24.00	3.50	10.25	10.25

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

1	Replacement	11.00	2.75	6.00	2.25
2	Add, change, or remove class,				
3	endorsement, or restriction	5.00	0	5.00	0
4	Farm permit:				
5	Original or renewal	5.00	.25	0	4.75
6	Replacement	5.00	.25	0	4.75
7	Temporary	5.00	.25	0	4.75
8	Add, change, or remove class,				
9	endorsement, or restriction	5.00	0	5.00	0
10	Driving permits:				
11	Employment	45.00	0	5.00	40.00
12	Medical hardship	45.00	0	5.00	40.00
13	Replacement	10.00	.25	5.00	4.75
14	Add, change, or remove class,				
15	endorsement, or restriction	5.00	0	5.00	0
16	Commercial driver's license:				
17	Valid for 1 year or less	11.00	1.75	5.00	4.25
18	Valid for more than 1 year				
19	but not more than 2 years	22.00	1.75	5.00	15.25
20	Valid for more than 2 years				
21	but not more than 3 years	33.00	1.75	5.00	26.25
22	Valid for more than 3 years				
23	but not more than 4 years	44.00	1.75	5.00	37.25
24	Valid for 5 years	55.00	1.75	5.00	48.25
25	Bioptic or telescopic lens				
26	restriction:				
27	Valid for one year or less	11.00	1.75	5.00	4.25
28	Valid for more than 1 year				
29	but not more than 2 years	22.00	1.75	5.00	15.25
30	Replacement	11.00	2.75	6.00	2.25



1	Add, change, or remove class,				
2	endorsement, or restriction	10.00	1.75	5.00	3.25
3	CLP-commercial learner's				
4	permit:				
5	Original or renewal	10.00	.25	5.00	4.75
6	Replacement	10.00	.25	5.00	4.75
7	Add, change, or remove class,				
8	endorsement, or restriction	10.00	.25	5.00	4.75
9	Seasonal permit:				
10	Original or renewal	10.00	.25	5.00	4.75
11	Replacement	10.00	.25	5.00	4.75
12	Add, change, or remove class,				
13	endorsement, or restriction	10.00	.25	5.00	4.75

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

18 (4)(a) The fee for an ignition interlock permit shall be forty-five  
19 dollars. Five dollars of the fee shall be remitted to the State Treasurer  
20 for credit to the Department of Motor Vehicles Cash Fund. Forty dollars  
21 of the fee shall be remitted to the State Treasurer for credit to the  
22 Department of Motor Vehicles Ignition Interlock Fund.

23 (b) The fee for a replacement ignition interlock permit shall be  
24 eleven dollars. Two dollars and seventy-five cents of the fee shall be  
25 remitted to the county treasurer for credit to the county general fund.  
26 Six dollars of the fee shall be remitted to the State Treasurer for  
27 credit to the Department of Motor Vehicles Cash Fund. Two dollars and  
28 twenty-five cents of the fee shall be remitted to the State Treasurer for  
29 credit to the General Fund.

30 (c) The fee for adding, changing, or removing a class, endorsement,  
31 or restriction on an ignition interlock permit shall be five dollars. The

1 fee shall be remitted to the State Treasurer for credit to the Department  
2 of Motor Vehicles Cash Fund.

3 (5)(a) The fee for a 24/7 sobriety program permit shall be forty-  
4 five dollars. Twenty-five dollars of the fee shall be remitted to the  
5 State Treasurer for credit to the Department of Motor Vehicles Cash Fund.  
6 Fifteen dollars of the fee shall be remitted to the State Treasurer for  
7 credit to the General Fund. Five dollars of the fee shall be remitted to  
8 the State Treasurer for credit to the county general fund of the  
9 participant's county of residence.

10 (b) The fee for a replacement 24/7 sobriety program permit shall be  
11 eleven dollars. Two dollars and seventy-five cents of the fee shall be  
12 remitted to the county treasurer for credit to the county general fund of  
13 the participant's county of residence. Six dollars of the fee shall be  
14 remitted to the State Treasurer for credit to the Department of Motor  
15 Vehicles Cash Fund. Two dollars and twenty-five cents of the fee shall be  
16 remitted to the State Treasurer for credit to the General Fund.

17 (c) The fee for adding, changing, or removing a class, endorsement,  
18 or restriction on a 24/7 sobriety program permit shall be five dollars.  
19 The fee shall be remitted to the State Treasurer for credit to the  
20 Department of Motor Vehicles Cash Fund.

21 (6) ~~(5)~~ The department and its agents may collect an identity  
22 security surcharge to cover the cost of security and technology practices  
23 used to protect the identity of applicants for and holders of operators'  
24 licenses and state identification cards and to reduce identity theft,  
25 fraud, and forgery and counterfeiting of such licenses and cards to the  
26 maximum extent possible. The surcharge shall be in addition to all other  
27 required fees for operators' licenses and state identification cards. The  
28 amount of the surcharge shall be determined by the department. The  
29 surcharge shall not exceed eight dollars. The surcharge shall be remitted  
30 to the State Treasurer for credit to the Department of Motor Vehicles  
31 Cash Fund.

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

3           60-6,197.05 Any period of revocation imposed by the court for a  
4 violation of section 60-6,196 or 60-6,197 shall be reduced by any period  
5 of revocation imposed under sections 60-498.01 to 60-498.04, including  
6 any period during which a person has a valid ignition interlock permit or  
7 24/7 sobriety program permit, arising from the same incident.

8           Sec. 14. Section 60-6,197.06, Revised Statutes Cumulative  
9 Supplement, 2020, is amended to read:

10          60-6,197.06 (1) Unless otherwise provided by law pursuant to an  
11 ignition interlock permit or a 24/7 sobriety program permit, any person  
12 operating a motor vehicle on the highways or streets of this state while  
13 his or her operator's license has been revoked pursuant to section  
14 28-306, section 60-698, subdivision (4), (5), (6), (7), (8), (9), or (10)  
15 of section 60-6,197.03, or section 60-6,198, or pursuant to subdivision  
16 (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of  
17 section 60-6,197 as such subdivisions existed prior to July 16, 2004,  
18 shall be guilty of a Class IV felony, and the court shall, as part of the  
19 judgment of conviction, revoke the operator's license of such person for  
20 a period of fifteen years from the date ordered by the court and shall  
21 issue an order pursuant to section 60-6,197.01. Such revocation and order  
22 shall be administered upon sentencing, upon final judgment of any appeal  
23 or review, or upon the date that any probation is revoked.

24          (2) If such person has had a conviction under this section or under  
25 subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197,  
26 as such subsections existed prior to July 16, 2004, and operates a motor  
27 vehicle on the highways or streets of this state while his or her  
28 operator's license has been revoked pursuant to such conviction, such  
29 person shall be guilty of a Class IIA felony, and the court shall, as  
30 part of the judgment of conviction, revoke the operator's license of such  
31 person for an additional period of fifteen years from the date ordered by

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

5 Sec. 15. Section 60-6,211.11, Revised Statutes Cumulative  
6 Supplement, 2020, is amended to read:

7 60-6,211.11 (1) Except as provided in subsection (2) of this  
8 section, any person ordered by a court or the Department of Motor  
9 Vehicles to operate only motor vehicles equipped with an ignition  
10 interlock device is guilty of a Class I misdemeanor if he or she (a)  
11 tampers with or circumvents and then operates a motor vehicle equipped  
12 with an ignition interlock device installed under the court order or  
13 Department of Motor Vehicles order while the order is in effect or (b)  
14 operates a motor vehicle which is not equipped with an ignition interlock  
15 device in violation of the court order or Department of Motor Vehicles  
16 order.

17 (2) Any person ordered by a court or the Department of Motor  
18 Vehicles to operate only motor vehicles equipped with an ignition  
19 interlock device is guilty of a Class IV felony if he or she (a)(i)  
20 tampers with or circumvents and then operates a motor vehicle equipped  
21 with an ignition interlock device installed under the court order or  
22 Department of Motor Vehicles order while the order is in effect or (ii)  
23 operates a motor vehicle which is not equipped with an ignition interlock  
24 device in violation of the court order or Department of Motor Vehicles  
25 order and (b) operates the motor vehicle as described in subdivision (a)  
26 (i) or (ii) of this subsection when he or she has a concentration of two-  
27 hundredths of one gram or more by weight of alcohol per one hundred  
28 milliliters of his or her blood or a concentration of two-hundredths of  
29 one gram or more by weight of alcohol per two hundred ten liters of his  
30 or her breath.

31 (3) Any person who otherwise operates a motor vehicle equipped with

1 an ignition interlock device in violation of the requirements of the  
2 court order or Department of Motor Vehicles order under which the device  
3 was installed shall be guilty of a Class III misdemeanor.

4 (4) Any person who has applied for and received a 24/7 sobriety  
5 program permit and operates a motor vehicle when the person has a  
6 concentration of two-hundredths of one gram or more by weight of alcohol  
7 per one hundred milliliters of the person's blood or a concentration of  
8 two-hundredths of one gram or more by weight of alcohol per two hundred  
9 ten liters of the person's breath, or who refuses a chemical test, shall  
10 be guilty of a Class IV felony.

11 Sec. 16. Sections 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, and  
12 17 of this act become operative on July 1, 2022. The other sections of  
13 this act become operative on their effective date.

14 Sec. 17. Original sections 29-901, 60-480, 60-498.01, 60-4,115,  
15 60-6,197.05, 60-6,197.06, and 60-6,211.11, Revised Statutes Cumulative  
16 Supplement, 2020, are repealed.

17 Sec. 18. Original sections 29-3604 and 29-3605, Reissue Revised  
18 Statutes of Nebraska, are repealed.

19 Sec. 19. Since an emergency exists, this act takes effect when  
20 passed and approved according to law.