

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 667

Final Reading

Introduced by Flood, 19.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 28-306,
 2 28-394, 29-215, 29-1917, 37-1238.01, 37-1254.01,
 3 37-1254.02, 37-1254.03, 37-1254.05, 37-1254.07,
 4 37-1254.08, 37-1295, 53-180, 53-180.05, 60-497.01,
 5 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115,
 6 60-4,118.06, 60-4,129, 60-4,164, 60-601, 60-6,197,
 7 60-6,197.02, 60-6,197.03, 60-6,197.05, 60-6,197.09,
 8 60-6,198, and 60-6,211.05, Reissue Revised Statutes of
 9 Nebraska, and sections 28-101, 29-2259.01, and 37-1201,
 10 Revised Statutes Cumulative Supplement, 2010; to prohibit
 11 transportation of certain minors by a person under the
 12 influence of alcohol or drugs; to change provisions
 13 relating to motor vehicle homicide, operating a
 14 motorboat, personal watercraft, or motor vehicle under
 15 the influence, the Probation Cash Fund, regulation of
 16 vessels, procuring alcohol for a minor or a mentally

1 incompetent person, administrative license revocation,
2 ignition interlock permits and devices, and employment
3 driving permits; to change fees; to create a fund; to
4 provide for a public education campaign; to provide,
5 change, and eliminate penalties; to harmonize provisions;
6 to provide an operative date; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 28-101 Sections 28-101 to 28-1356 and section 2 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. (1) It shall be unlawful for any person to
6 operate or be in the actual physical control of a motor vehicle with
7 a person under the age of sixteen years as a passenger:

8 (a) While the person operating or in the actual physical
9 control of the motor vehicle is under the influence of alcoholic
10 liquor or any drug;

11 (b) When the person operating or in the actual physical
12 control of the motor vehicle has a concentration of eight-hundredths
13 of one gram or more by weight of alcohol per one hundred milliliters
14 of his or her blood;

15 (c) When the person operating or in the actual physical
16 control of the motor vehicle has a concentration of eight-hundredths
17 of one gram or more by weight of alcohol per two hundred ten liters
18 of his or her breath; or

19 (d) If the person operating or in the actual physical
20 control of the motor vehicle refuses to submit to a chemical test or
21 tests when directed to do so by a peace officer pursuant to section
22 60-6,197.

23 (2) A violation of this section shall be a Class I
24 misdemeanor.

25 (3) The crime punishable under this section shall be

1 treated as a separate and distinct offense from any other offense
2 arising out of acts alleged to have been committed while the person
3 was in violation of this section.

4 Sec. 3. Section 28-306, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-306 (1) A person who causes the death of another
7 unintentionally while engaged in the operation of a motor vehicle in
8 violation of the law of the State of Nebraska or in violation of any
9 city or village ordinance commits motor vehicle homicide.

10 (2) Except as provided in subsection (3) of this section,
11 motor vehicle homicide is a Class I misdemeanor.

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

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

22 (c) If the proximate cause of the death of another is the
23 operation of a motor vehicle in violation of section 60-6,196 or
24 60-6,197.06, motor vehicle homicide is a Class II felony if the
25 defendant has a prior conviction for a violation of section 60-6,196

1 or 60-6,197.06, under a city or village ordinance enacted in
2 conformance with section 60-6,196, or under a law of another state
3 if, at the time of the conviction under the law of such other state,
4 the offense for which the defendant was convicted would have been a
5 violation of section 60-6,196. The court shall, as part of the
6 judgment of conviction, order the person not to drive any motor
7 vehicle for any purpose for a period of fifteen years and shall order
8 that the operator's license of such person be revoked for the same
9 period.

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

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

18 Sec. 4. Section 28-394, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 28-394 (1) A person who causes the death of an unborn
21 child unintentionally while engaged in the operation of a motor
22 vehicle in violation of the law of the State of Nebraska or in
23 violation of any city or village ordinance commits motor vehicle
24 homicide of an unborn child.

25 (2) Except as provided in subsection (3) of this section,

1 motor vehicle homicide of an unborn child is a Class I misdemeanor.

2 (3)(a) If the proximate cause of the death of an unborn
3 child is the operation of a motor vehicle in violation of section
4 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is a
5 Class IV felony.

6 (b) Except as provided in subdivision (3)(c) of this
7 section, if the proximate cause of the death of an unborn child is
8 the operation of a motor vehicle in violation of section 60-6,196 or
9 60-6,197.06, motor vehicle homicide of an unborn child is a Class IV
10 felony and the court shall, as part of the judgment of conviction,
11 order the person not to drive any motor vehicle for any purpose for a
12 period of at least sixty days and not more than fifteen years after
13 the date ordered by the court and shall order that the operator's
14 license of such person be revoked for the same period. The revocation
15 shall not run concurrently with any jail term imposed.

16 (c) If the proximate cause of the death of an unborn
17 child is the operation of a motor vehicle in violation of section
18 60-6,196 or 60-6,197.06 and the defendant has a prior conviction for
19 a violation of section 60-6,196 or a city or village ordinance
20 enacted in conformance with section 60-6,196, motor vehicle homicide
21 of an unborn child is a Class III felony and the court shall, as part
22 of the judgment of conviction, order the person not to drive any
23 motor vehicle for any purpose for a period of at least sixty days and
24 not more than fifteen years after the date ordered by the court and
25 shall order that the operator's license of such person be revoked for

1 the same period. The revocation shall not run concurrently with any
2 jail term imposed.

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

7 Sec. 5. Section 29-215, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 29-215 (1) A law enforcement officer has the power and
10 authority to enforce the laws of this state and of the political
11 subdivision which employs the law enforcement officer or otherwise
12 perform the functions of that office anywhere within his or her
13 primary jurisdiction.

14 (2) Any law enforcement officer who is within this state,
15 but beyond his or her primary jurisdiction, has the power and
16 authority to enforce the laws of this state or any legal ordinance of
17 any city or incorporated village or otherwise perform the functions
18 of his or her office, including the authority to arrest and detain
19 suspects, as if enforcing the laws or performing the functions within
20 his or her primary jurisdiction in the following cases:

21 (a) Any such law enforcement officer, if in a fresh
22 attempt to apprehend a person suspected of committing a felony, may
23 follow such person into any other jurisdiction in this state and
24 there arrest and detain such person and return such person to the law
25 enforcement officer's primary jurisdiction;

1 (b) Any such law enforcement officer, if in a fresh
2 attempt to apprehend a person suspected of committing a misdemeanor
3 or a traffic infraction, may follow such person anywhere in an area
4 within twenty-five miles of the boundaries of the law enforcement
5 officer's primary jurisdiction and there arrest and detain such
6 person and return such person to the law enforcement officer's
7 primary jurisdiction;

8 (c) Any such law enforcement officer shall have such
9 enforcement and arrest and detention authority when responding to a
10 call in which a local, state, or federal law enforcement officer is
11 in need of assistance. A law enforcement officer in need of
12 assistance shall mean (i) a law enforcement officer whose life is in
13 danger or (ii) a law enforcement officer who needs assistance in
14 making an arrest and the suspect (A) will not be apprehended unless
15 immediately arrested, (B) may cause injury to himself or herself or
16 others or damage to property unless immediately arrested, or (C) may
17 destroy or conceal evidence of the commission of a crime; and

18 (d) Any municipality or county may, under the provisions
19 of the Interlocal Cooperation Act or the Joint Public Agency Act,
20 enter into a contract with any other municipality or county for law
21 enforcement services or joint law enforcement services. Under such an
22 agreement, law enforcement personnel may have such enforcement
23 authority within the jurisdiction of each of the participating
24 political subdivisions if provided for in the agreement. Unless
25 otherwise provided in the agreement, each participating political

1 subdivision shall provide liability insurance coverage for its own
2 law enforcement personnel as provided in section 13-1802.

3 (3) When probable cause exists to believe that a person
4 is operating or in the actual physical control of any motor vehicle,
5 motorboat, personal watercraft, or aircraft while under the influence
6 of alcoholic liquor or of any drug or otherwise in violation of
7 section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163,
8 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the law
9 enforcement officer has the power and authority to do any of the
10 following or any combination thereof:

11 (a) Transport such person to a facility outside of the
12 law enforcement officer's primary jurisdiction for appropriate
13 chemical testing of the person;

14 (b) Administer outside of the law enforcement officer's
15 primary jurisdiction any post-arrest test advisement to the person;
16 or

17 (c) With respect to such person, perform other procedures
18 or functions outside of the law enforcement officer's primary
19 jurisdiction which are directly and solely related to enforcing the
20 laws that concern a person operating or being in the actual physical
21 control of any motor vehicle, motorboat, personal watercraft, or
22 aircraft while under the influence of alcoholic liquor or of any
23 other drug or otherwise in violation of section 28-1465, 28-1466,
24 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196,
25 60-6,197, 60-6,211.01, or 60-6,211.02.

1 (4) For purposes of this section:

2 (a) Law enforcement officer has the same meaning as peace
3 officer as defined in section 49-801 and also includes conservation
4 officers of the Game and Parks Commission; and

5 (b) Primary jurisdiction means the geographic area within
6 the territorial limits of the state or political subdivision which
7 employs the law enforcement officer.

8 Sec. 6. Section 29-1917, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 29-1917 (1) Except as provided in section 29-1926, at any
11 time after the filing of an indictment or information in a felony ~~or~~
12 ~~Class W misdemeanor~~ prosecution, the prosecuting attorney or the
13 defendant may request the court to allow the taking of a deposition
14 of any person other than the defendant who may be a witness in the
15 trial of the offense. The court may order the taking of the
16 deposition when it finds the testimony of the witness:

17 (a) May be material or relevant to the issue to be
18 determined at the trial of the offense; or

19 (b) May be of assistance to the parties in the
20 preparation of their respective cases.

21 (2) An order granting the taking of a deposition shall
22 include the time and place for taking such deposition and such other
23 conditions as the court determines to be just.

24 (3) The proceedings in taking the deposition of a witness
25 pursuant to this section and returning it to the court shall be

1 governed in all respects as the taking of depositions in civil cases.

2 (4) A deposition taken pursuant to this section may be
3 used at the trial by any party solely for the purpose of
4 contradicting or impeaching the testimony of the deponent as a
5 witness.

6 Sec. 7. Section 29-2259.01, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 29-2259.01 (1) There is hereby created the Probation Cash
9 Fund. All money collected pursuant to subdivisions (2)(m) and (2)(o)
10 of section 29-2262 and ~~subdivisions (4)(a) and (4)(b) of section~~
11 ~~60-4,115~~ shall be remitted to the State Treasurer for credit to the
12 fund.

13 (2) Expenditures from the money in the fund collected
14 pursuant to subdivisions (2)(m) and (2)(o) of section 29-2262 shall
15 include, but not be limited to, supplementing any state funds
16 necessary to support the costs of the services for which the money
17 was collected.

18 ~~(3)(a) The Office of Probation Administration shall use~~
19 ~~no more than five percent of the money in the fund collected in each~~
20 ~~fiscal year pursuant to subdivisions (4)(a) and (4)(b) of section~~
21 ~~60-4,115 for administrative costs of the office.~~

22 ~~(b) Expenditures from the money in the fund collected~~
23 ~~pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115 shall~~
24 ~~also be used to provide for the cost of installing, removing, and~~
25 ~~maintaining an ignition interlock device in accordance with~~

1 ~~subsection (9) of section 60-6,211.05. The office shall not be~~
2 ~~required to pay costs authorized under this subdivision that exceed~~
3 ~~the amount of funds available for this purpose.~~

4 ~~(4)-(3)~~ Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to the
6 Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 ~~(5) The State Treasurer shall transfer any money in the~~
9 ~~Ignition Interlock Device Fund on May 14, 2009, to the Probation Cash~~
10 ~~Fund.~~

11 (4) The State Treasurer shall transfer any remaining
12 money in the fund collected pursuant to subdivisions (4)(a) and (4)
13 (b) of section 60-4,115 on the operative date of this act to the
14 Department of Motor Vehicles Ignition Interlock Fund.

15 Sec. 8. Section 37-1201, Revised Statutes Cumulative
16 Supplement, 2010, is amended to read:

17 37-1201 Sections 37-1201 to 37-12,110 and sections 16,
18 17, 18, and 19 of this act shall be known and may be cited as the
19 State Boat Act. It is the policy of this state to promote safety for
20 persons and property in and connected with the use, operation, and
21 equipment of vessels and to promote uniformity of laws relating
22 thereto.

23 Sec. 9. Section 37-1238.01, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 37-1238.01 No person other than a rescue squad member

1 actually en route to, at, or returning from any emergency requiring
2 the services of such member or any ~~law enforcement~~ peace officer in
3 the performance of his or her official duties shall operate a vessel
4 equipped with a rotating or flashing red or blue light or lights upon
5 the waters of this state.

6 Sec. 10. Section 37-1254.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 37-1254.01 (1) No person shall be in the actual physical
9 control of any motorboat or personal watercraft under propulsion upon
10 the waters of this state:

11 (a) While under the influence of ~~alcohol~~ alcoholic liquor
12 or of any ~~controlled substance as defined in section 28-401;~~ drug;

13 (b) When such person has a concentration of eight-
14 hundredths of one gram or more by weight of alcohol per one hundred
15 milliliters of his or her blood; or

16 (c) When such person has a concentration of eight-
17 hundredths of one gram or more by weight of alcohol per two hundred
18 ten liters of his or her breath.

19 ~~(2) Any person who is in the actual physical control of~~
20 ~~any motorboat under propulsion upon the waters of this state while in~~
21 ~~a condition described in subsection (1) of this section shall be~~
22 ~~guilty of a Class II misdemeanor. Upon conviction the court shall, as~~
23 ~~part of the judgment of conviction, order such person not to be in~~
24 ~~the physical control of a motorboat under propulsion upon the waters~~
25 ~~of this state for any purpose for a period of six months from the~~

1 ~~date of such conviction, except that if the court places such person~~
2 ~~on probation or suspends the sentence for any reason, the court~~
3 ~~shall, as one of the conditions of probation or sentence suspension,~~
4 ~~order such person not to be in the physical control of any motorboat~~
5 ~~under propulsion upon the waters of this state for any purpose for a~~
6 ~~period of sixty days from the date of the order.~~

7 ~~(3) (2)~~ Any city or village may enact ordinances in
8 conformance with this section and section 37-1254.02. Upon conviction
9 of any person of a violation of such a city or village ordinance, the
10 provisions of sections 18 and 19 of this act shall be applicable the
11 same as though it were a violation of this section or section
12 37-1254.02.

13 (3) Any person who is in the actual physical control of
14 any motorboat or personal watercraft under propulsion upon the waters
15 of this state while in a condition described in subsection (1) of
16 this section shall be guilty of a crime and upon conviction punished
17 as provided in section 19 of this act.

18 ~~(4) At the discretion of the court, any person convicted~~
19 ~~of violating this section or violating any city or village ordinance~~
20 ~~adopted in conformance with this section may be required to attend,~~
21 ~~at the convicted person's expense, an alcoholism treatment program as~~
22 ~~a term of probation.~~

23 Sec. 11. Section 37-1254.02, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 37-1254.02 (1) Any person who has in his or her actual

1 physical control a motorboat or personal watercraft under propulsion
2 upon the waters of this state shall be deemed to have given his or
3 her consent to submit to a chemical test or tests of his or her
4 blood, ~~or~~ breath, or urine for the purpose of determining the ~~amount~~
5 ~~of alcohol content~~ concentration of alcohol or the presence of drugs
6 in such blood, ~~or~~ breath, or urine.

7 (2) Any ~~law enforcement~~ peace officer who has been duly
8 authorized to make arrests for violations of laws of this state or
9 ordinances of any city or village may require any person arrested for
10 any offense arising out of acts alleged to have been committed while
11 the person was in the actual physical control of a motorboat or
12 personal watercraft under propulsion upon the waters of this state
13 under the influence of alcohol or drugs to submit to a chemical test
14 or tests of his or her blood, ~~or~~ breath, or urine for the purpose of
15 determining the ~~alcohol content of~~ concentration of alcohol or the
16 presence of drugs in such blood, ~~or~~ breath, or urine when the officer
17 has reasonable grounds to believe that the person was in the actual
18 physical control of a motorboat or personal watercraft under
19 propulsion upon the waters of this state while under the influence of
20 alcohol or drugs in violation of section 37-1254.01. It shall be
21 unlawful for a person to refuse to provide a sample of his or her
22 blood, breath, or urine after being directed by a peace officer to
23 submit to a chemical test or tests of his or her blood or breath
24 pursuant to this section.

25 (3) ~~Any law enforcement officer who has been duly~~

1 authorized to make arrests for violations of laws of this state or
2 ordinances of any city or village may require any person who has in
3 his or her actual physical control a motorboat under propulsion upon
4 the waters of this state to submit to a preliminary test of his or
5 her breath for alcohol content if the officer has reasonable grounds
6 to believe that such person has alcohol in his or her body or has
7 committed any violation of this section and section 37-1254.01. Any
8 person who refuses to submit to such preliminary breath test or whose
9 preliminary breath test results indicate an alcohol content of eight-
10 hundredths of one gram or more by weight of alcohol per two hundred
11 ten liters of his or her breath shall be placed under arrest. Any
12 person who refuses to submit to such preliminary breath test shall be
13 guilty of a Class III misdemeanor.

14 ~~(4)~~ (3) Any person arrested pursuant to as described in
15 subsection (2) of this section may, upon the direction of a law
16 enforcement peace officer, be required to submit to a chemical test
17 or tests of his or her blood, or breath, or urine for a determination
18 of the concentration of alcohol or the presence of drugs. alcohol
19 content. Any person who refuses to submit to a chemical blood or
20 breath test required pursuant to this section shall be guilty of a
21 Class II misdemeanor, and the court shall, as part of the judgment of
22 conviction, order such person not to be in the actual physical
23 control of any motorboat under propulsion upon the waters of this
24 state for any purpose for a period of six months from the date of
25 such conviction. If the court places such person on probation or

1 ~~suspends the sentence for any reason, the court shall, as one of the~~
2 ~~conditions of probation or sentence suspension, order such person not~~
3 ~~to be in the actual physical control of any motorboat under~~
4 ~~propulsion upon the waters of this state for any purpose for a period~~
5 ~~of sixty days from the date of the order.~~

6 (4) Any person involved in a motorboat or personal
7 watercraft accident in this state may be required to submit to a
8 chemical test or tests of his or her blood, breath, or urine by any
9 peace officer if the officer has reasonable grounds to believe that
10 the person was in the actual physical control of a motorboat or
11 personal watercraft under propulsion upon the waters of this state
12 while under the influence of alcoholic liquor or drugs at the time of
13 the accident.

14 (5) Any person who is required to submit to a ~~preliminary~~
15 ~~breath test or to a chemical blood, or breath, or urine test or tests~~
16 pursuant to this section shall be advised ~~of the consequences of~~
17 ~~refusing to submit to such test. that if he or she refuses to submit~~
18 ~~to such test or tests, he or she could be charged with a separate~~
19 ~~crime. Failure to provide such advisement shall not affect the~~
20 ~~admissibility of the chemical test result in any legal proceedings.~~
21 However, failure to provide such advisement shall negate the state's
22 ability to bring any criminal charges against a refusing party
23 pursuant to this section.

24 (6) Any person convicted of a violation of this section
25 shall be punished as provided in section 19 of this act.

1 (7) Refusal to submit to a chemical blood, breath, or
2 urine test or tests pursuant to this section shall be admissible
3 evidence in any action for a violation of section 37-1254.01 or a
4 city or village ordinance enacted in conformance with such section.

5 Sec. 12. Section 37-1254.03, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 37-1254.03 The ~~law enforcement~~ peace officer who requires
8 a chemical blood, ~~or~~ breath, or urine test or tests pursuant to
9 section 37-1254.02 may direct whether the test or tests shall be of
10 blood, ~~or~~ breath, or urine. When the officer directs that the test or
11 tests shall be of a person's blood, the person tested shall be
12 permitted to have a physician of his or her choice evaluate his or
13 her condition and perform or have performed whatever laboratory tests
14 such person tested deems appropriate in addition to and following the
15 test or tests administered at the direction of the ~~law enforcement~~
16 peace officer. If the officer refuses to permit such additional test
17 or tests to be taken, then the original test or tests shall not be
18 competent as evidence. Upon request the results of the test or tests
19 taken at the direction of the ~~law enforcement~~ peace officer shall be
20 made available to the person being tested.

21 Sec. 13. Section 37-1254.05, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 37-1254.05 (1) Except as provided in section 37-1254.03,
24 any test or tests made pursuant to section 37-1254.02, if made in
25 conformance with the requirements of this section, shall be competent

1 evidence in any prosecution under a state law or city or village
2 ordinance regarding the actual physical control of any motorboat or
3 personal watercraft under propulsion upon the waters of this state
4 while under the influence of alcohol or drugs or regarding the actual
5 physical control of any motorboat or personal watercraft under
6 propulsion upon the waters of this state when the concentration of
7 alcohol in the blood or breath is in excess of allowable levels in
8 violation of section 37-1254.01 or a city or village ordinance.

9 (2) To be considered valid, tests shall have been
10 performed according to methods approved by the Department of Health
11 and Human Services and by an individual possessing a valid permit
12 issued by the department for such purpose. The department may approve
13 satisfactory techniques or methods and ascertain the qualifications
14 and competence of individuals to perform such tests and may issue
15 permits which shall be subject to termination or revocation at the
16 discretion of the department.

17 (3) The permit fee may be established by rules and
18 regulations adopted and promulgated by the department, which fee
19 shall not exceed the actual cost of processing the initial permit.
20 Such fee shall be charged annually to each permit holder. The fees
21 shall be used to defray the cost of processing and issuing the
22 permits and other expenses incurred by the department in carrying out
23 this section. The fee shall be deposited in the state treasury and
24 credited to the Health and Human Services Cash Fund as a laboratory
25 service fee.

1 (4) Relevant evidence shall not be excluded in any
2 prosecution under a state statute or city or village ordinance
3 involving being in the actual physical control of a motorboat or
4 personal watercraft under propulsion upon the waters of this state
5 while under the influence of alcoholic liquor or drugs or involving
6 being in the actual physical control of a motorboat or personal
7 watercraft under propulsion upon the waters of this state when the
8 concentration of alcohol in the blood or breath is in excess of
9 allowable levels on the ground that the evidence existed or was
10 obtained outside of this state.

11 Sec. 14. Section 37-1254.07, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 37-1254.07 Upon the conviction of any person for
14 violation of section 37-1254.01 or for being in the actual physical
15 control of a motorboat or personal watercraft under propulsion upon
16 the waters of this state while under the influence of alcohol or of
17 ~~any controlled substance as defined in section 28-401 drug~~ in
18 violation of any city or village ordinance, there shall be assessed
19 as part of the court costs the fee charged by any physician or any
20 agency administering tests, pursuant to a permit issued in accordance
21 with section 37-1254.05, for the test administered and the analysis
22 thereof pursuant to section 37-1254.02 if such test was actually
23 made.

24 Sec. 15. Section 37-1254.08, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 37-1254.08 Any person arrested for any offense involving
2 the actual physical control of a motorboat or personal watercraft
3 under propulsion upon the waters of this state while under the
4 influence of alcohol or drugs shall be required to submit to a
5 chemical test or tests of his or her blood, ~~or breath,~~ or urine as
6 provided in section 37-1254.02 without the preliminary breath test if
7 the arresting officer does not have available the necessary equipment
8 for administering a breath test or if the person is unconscious or is
9 otherwise in a condition rendering him or her incapable of testing by
10 a preliminary breath test. Only a physician, registered nurse, or
11 qualified technician acting at the request of a ~~law enforcement peace~~
12 officer may withdraw blood for the purpose of determining ~~its alcohol~~
13 ~~content,~~ the concentration of alcohol or the presence of drugs, but
14 such limitation shall not apply to the taking of a breath or urine
15 specimen.

16 Sec. 16. Any peace officer who has been duly authorized
17 to make arrests for violations of laws of this state or ordinances of
18 any city or village may require any person who has in his or her
19 actual physical control a motorboat or personal watercraft under
20 propulsion upon the waters of this state to submit to a preliminary
21 test of his or her breath for alcohol concentration if the officer
22 has reasonable grounds to believe that such person is under the
23 influence of alcohol or of any drug or has committed a violation of
24 section 37-1254.01 or 37-1254.02. Any person who refuses to submit to
25 such preliminary breath test or whose preliminary breath test results

1 indicate an alcohol concentration in violation of section 37-1254.01
2 shall be placed under arrest. Any person who refuses to submit to
3 such preliminary breath test shall be guilty of a Class III
4 misdemeanor.

5 Sec. 17. (1) It shall be unlawful for any person to be in
6 the actual physical control of a motorboat or personal watercraft
7 under propulsion upon the waters of this state during a period of
8 court-ordered prohibition resulting from a conviction based upon a
9 violation of section 37-1254.01 or 37-1254.02 or a city or village
10 ordinance enacted in conformance with either section.

11 (2) Any person who has been convicted of a violation of
12 this section is guilty of a Class I misdemeanor.

13 Sec. 18. (1) For purposes of sentencing under section 19
14 of this act:

15 (a) Prior conviction means a conviction for which a final
16 judgment has been entered prior to the offense for which the sentence
17 is being imposed as follows:

18 (i) For a violation of section 37-1254.01:

19 (A) Any conviction for a violation of section 37-1254.01;

20 (B) Any conviction for a violation of a city or village
21 ordinance enacted in conformance with section 37-1254.01; or

22 (C) Any conviction under a law of another state if, at
23 the time of the conviction under the law of such other state, the
24 offense for which the person was convicted would have been a
25 violation of section 37-1254.01; or

1 (ii) For a violation of section 37-1254.02:

2 (A) Any conviction for a violation of section 37-1254.02;

3 (B) Any conviction for a violation of a city or village
4 ordinance enacted in conformance with section 37-1254.02; or

5 (C) Any conviction under a law of another state if, at
6 the time of the conviction under the law of such other state, the
7 offense for which the person was convicted would have been a
8 violation of section 37-1254.02; and

9 (b) Prior conviction includes any conviction under
10 section 37-1254.01 or 37-1254.02, or any city or village ordinance
11 enacted in conformance with either of such sections, as such sections
12 or city or village ordinances existed at the time of such conviction
13 regardless of subsequent amendments to any of such sections or city
14 or village ordinances.

15 (2) The prosecutor shall present as evidence for purposes
16 of sentence enhancement a court-certified copy or an authenticated
17 copy of a prior conviction in another state. The court-certified or
18 authenticated copy shall be prima facie evidence of such prior
19 conviction.

20 (3) For each conviction for a violation of section
21 37-1254.01 or 37-1254.02, the court shall, as part of the judgment of
22 conviction, make a finding on the record whether the convicted person
23 has a usable prior conviction. The convicted person shall be given
24 the opportunity to review the record of his or her prior convictions,
25 bring mitigating facts to the attention of the court prior to

1 sentencing, and make objections on the record regarding the validity
2 of such prior convictions.

3 (4) A person arrested for a violation of section
4 37-1254.01 or 37-1254.02 before the operative date of this act but
5 sentenced for such violation on or after the operative date of this
6 act shall be sentenced according to the provisions of section
7 37-1254.01 or 37-1254.02 in effect on the date of arrest.

8 Sec. 19. Any person convicted of a violation of section
9 37-1254.01 or 37-1254.02 shall be punished as follows:

10 (1) If such person has not had a prior conviction, such
11 person shall be guilty of a Class II misdemeanor. Upon conviction the
12 court shall, as part of the judgment of conviction, order such person
13 not to be in the actual physical control of any motorboat or personal
14 watercraft under propulsion upon the waters of this state for any
15 purpose for a period of six months from the date of such conviction.
16 Such order shall be administered upon sentencing, upon final judgment
17 of any appeal or review, or upon the date that any probation is
18 revoked.

19 If the court places such person on probation or suspends
20 the sentence for any reason, the court shall, as one of the
21 conditions of probation or sentence suspension, order such person not
22 to be in the actual physical control of any motorboat or personal
23 watercraft under propulsion upon the waters of this state for any
24 purpose for a period of sixty days from the date of the order; and

25 (2) If such person has had one or more prior convictions,

1 such person shall be guilty of a Class I misdemeanor. Upon conviction
2 the court shall, as part of the judgment of conviction, order such
3 person not to be in the actual physical control of any motorboat or
4 personal watercraft under propulsion upon the waters of this state
5 for any purpose for a period of two years from the date of such
6 conviction. Such order shall be administered upon sentencing or upon
7 final judgment of any appeal or review. The two-year court-ordered
8 prohibition shall apply even if probation is granted or the sentence
9 suspended.

10 Sec. 20. Section 37-1295, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-1295 A certificate of title which is issued on or
13 after January 1, 2005, shall disclose in writing, from any records
14 readily accessible to the Department of Motor Vehicles or county
15 officials or a ~~law enforcement~~ peace officer, anything which
16 indicates that the motorboat was previously issued a title in another
17 jurisdiction that bore any word or symbol signifying that the
18 motorboat was damaged, including, but not limited to, older model
19 salvage, unrebuildable, parts only, scrap, junk, nonrepairable,
20 reconstructed, rebuilt, flood damaged, damaged, or any other
21 indication, symbol, or word of like kind, and the name of the
22 jurisdiction issuing the previous title.

23 Sec. 21. Section 53-180, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 53-180 No person shall sell, furnish, give away, ~~dispose~~

1 of, exchange, or deliver, or permit the sale, gift, or procuring of,
2 any alcoholic liquors, to or for any minor or to any person who is
3 mentally incompetent.

4 Sec. 22. Section 53-180.05, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 53-180.05 (1) ~~Any~~ Except as provided in subsection (2) of
7 this section, any person violating who violates section 53-180 shall
8 be guilty of a Class I misdemeanor.

9 (2) Any person who knowingly and intentionally violates
10 section 53-180 shall be guilty of a Class IIIA felony and serve a
11 mandatory minimum of at least thirty days' imprisonment as part of
12 any sentence he or she receives if serious bodily injury or death to
13 any person resulted and was proximately caused by a minor's (a)
14 consumption of the alcoholic liquor provided or (b) impaired
15 condition which, in whole or in part, can be attributed to the
16 alcoholic liquor provided.

17 (3) Any person violating who violates any of the
18 provisions of section 53-180.01 or 53-180.03 shall be guilty of a
19 Class III misdemeanor.

20 (4) Any person older than eighteen years of age and under
21 the age of twenty-one years violating section 53-180.02 is guilty of
22 a Class III misdemeanor.

23 (5) Any person eighteen years of age or younger violating
24 section 53-180.02 is guilty of a misdemeanor as provided in section
25 53-181 and shall be punished as provided in such section.

1 ~~(2)~~(6) Any person who knowingly manufactures, creates,
2 or alters any form of identification for the purpose of sale or
3 delivery of such form of identification to a person under the age of
4 twenty-one years shall be guilty of a Class I misdemeanor. For
5 purposes of this subsection, form of identification means any card,
6 paper, or legal document that may be used to establish the age of the
7 person named thereon for the purpose of purchasing alcoholic liquor.

8 ~~(3)~~(7) When a minor is arrested for a violation of
9 sections 53-180 to 53-180.02 or subsection ~~(2)~~(6) of this section,
10 the law enforcement agency employing the arresting peace officer
11 shall make a reasonable attempt to notify such minor's parent or
12 guardian of the arrest.

13 Sec. 23. Section 60-497.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 60-497.01 (1) An abstract of the court record of every
16 case in which a person is convicted of violating any provision of the
17 Motor Vehicle Operator's License Act, the Motor Vehicle Safety
18 Responsibility Act, the Nebraska Rules of the Road, or section
19 28-524, as from time to time amended by the Legislature, or any
20 traffic regulations in city or village ordinances shall be
21 transmitted within thirty days of sentencing or other disposition by
22 the court to the director. Any abstract received by the director more
23 than thirty days after the date of sentencing or other disposition
24 shall be reported by the director to the State Court Administrator.

25 (2) Any person violating section 28-306, 28-394, 60-696,

1 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 or section 2 of
2 this act who is placed on probation shall be assessed the same points
3 under section 60-4,182 as if such person were not placed on probation
4 unless a court has ordered that such person must obtain an ignition
5 interlock permit in order to operate a motor vehicle with an ignition
6 interlock device pursuant to section 60-6,211.05 and sufficient
7 evidence is presented to the department that such a device is
8 installed. For any other violation, the director shall not assess
9 such person with any points under section 60-4,182 for such violation
10 when the person is placed on probation until the director is advised
11 by the court that such person previously placed on probation has
12 violated the terms of his or her probation and such probation has
13 been revoked. Upon receiving notice of revocation of probation, the
14 director shall assess to such person the points which such person
15 would have been assessed had the person not been placed on probation.
16 When a person fails to successfully complete probation, the court
17 shall notify the director immediately.

18 Sec. 24. Section 60-498.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 60-498.01 (1) Because persons who drive while under the
21 influence of alcohol present a hazard to the health and safety of all
22 persons using the highways, a procedure is needed for the swift and
23 certain revocation of the operator's license of any person who has
24 shown himself or herself to be a health and safety hazard (a) by
25 driving with an excessive concentration of alcohol in his or her body

1 or (b) by driving while under the influence of alcohol.

2 (2) If a person arrested as described in subsection (2)
3 of section 60-6,197 refuses to submit to the chemical test of blood,
4 breath, or urine required by section 60-6,197, the test shall not be
5 given except as provided in section 60-6,210 for the purpose of
6 medical treatment and the arresting peace officer, as agent for the
7 ~~Director of Motor Vehicles,~~ director, shall verbally serve notice to
8 the arrested person of the intention to immediately confiscate and
9 revoke the operator's license of such person and that the revocation
10 will be automatic ~~thirty~~ fifteen days after the date of arrest.
11 ~~unless a petition for hearing is filed within ten days after the date~~
12 ~~of arrest as provided in subsection (6) of this section.~~ The
13 arresting peace officer shall within ten days forward to the director
14 a sworn report stating (a) that the person was arrested as described
15 in subsection (2) of section 60-6,197 and the reasons for such
16 arrest, (b) that the person was requested to submit to the required
17 test, and (c) that the person refused to submit to the required test.
18 The director may accept a sworn report submitted electronically.

19 (3) If a person arrested as described in subsection (2)
20 of section 60-6,197 submits to the chemical test of blood or breath
21 required by section 60-6,197, the test discloses the presence of
22 alcohol in any of the concentrations specified in section 60-6,196,
23 and the test results are available to the arresting peace officer
24 while the arrested person is still in custody, the arresting peace
25 officer, as agent for the director, shall verbally serve notice to

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

14 (4) On behalf of the director, the arresting peace
15 officer submitting a sworn report under subsection (2) or (3) of this
16 section shall serve notice of the revocation on the arrested person,
17 and the revocation shall be effective ~~thirty~~fifteen days after the
18 date of arrest. The notice of revocation shall contain a statement
19 explaining the operation of the administrative license revocation
20 procedure. The peace officer shall also provide to the arrested
21 person ~~an addressed envelope and a petition form which the arrested~~
22 ~~person may use to request a hearing before the director to contest~~
23 ~~the revocation. The petition form shall clearly state on its face~~
24 ~~that the petition must be completed and delivered to the Department~~
25 ~~of Motor Vehicles~~ information prepared and approved by the director

1 describing how to request an administrative license revocation
2 hearing or apply for an ignition interlock permit from the
3 department. A petition for an administrative license revocation
4 hearing must be completed and delivered to the department or
5 postmarked within ten days after receipt ~~the person's arrest or the~~
6 person's right to a ~~an administrative license revocation hearing to~~
7 contest the revocation will be foreclosed. The director shall prepare
8 and approve the information form, the application for an ignition
9 interlock permit, for the petition, the addressed envelope, and the
10 notice of revocation and shall provide them to law enforcement
11 agencies.

12 If the person has an operator's license, the arresting
13 peace officer shall take possession of the license and issue a
14 temporary operator's license valid for ~~thirty~~ fifteen days. The
15 arresting peace officer shall forward the operator's license to the
16 department along with the sworn report made under subsection (2) or
17 (3) of this section.

18 (5)(a) If the results of a chemical test indicate the
19 presence of alcohol in a concentration specified in section 60-6,196,
20 the results are not available to the arresting peace officer while
21 the arrested person is in custody, and the notice of revocation has
22 not been served as required by subsection (4) of this section, the
23 peace officer shall forward to the director a sworn report containing
24 the information prescribed by subsection (3) of this section within
25 ten days after receipt of the results of the chemical test. If the

1 sworn report is not received within ten days, the revocation shall
2 not take effect. The director may accept a sworn report submitted
3 electronically.

4 (b) Upon receipt of the report, the director shall serve
5 the notice of revocation on the arrested person by ~~certified or~~
6 ~~registered~~ mail to the address appearing on the records of the
7 director. If the address on the director's records differs from the
8 address on the arresting peace officer's report, the notice shall be
9 sent to both addresses. The notice of revocation shall contain a
10 statement explaining the operation of the administrative license
11 revocation procedure. The director shall also provide to the arrested
12 person ~~an addressed envelope and a petition form which the arrested~~
13 ~~person may use to request a hearing before the director to contest~~
14 ~~the revocation. The petition form shall clearly state on its face~~
15 ~~that the petition information prepared and approved by the director~~
16 describing how to request an administrative license revocation
17 hearing and an application for an ignition interlock permit. A
18 petition for an administrative license revocation hearing must be
19 completed and delivered to the department or postmarked within ten
20 days after ~~receipt~~ the mailing of the notice of revocation or the
21 person's right to a an administrative license revocation hearing to
22 contest the revocation will be foreclosed. The director shall prepare
23 and approve the ~~form for the petition, the addressed envelope,~~
24 ignition interlock permit application and the notice of revocation.
25 The revocation shall be effective ~~thirty~~ fifteen days after the date

1 of mailing.

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

12 (6)(a) An arrested person's operator's license
13 confiscated pursuant to subsection (4) of this section shall be
14 automatically revoked upon the expiration of ~~thirty~~fifteen days
15 after the date of arrest, and the petition requesting the hearing
16 shall be completed and delivered to the department or postmarked
17 within ten days after the person's arrest. An arrested person's
18 operator's license confiscated pursuant to subsection (5) of this
19 section shall be automatically revoked upon the expiration of ~~thirty~~
20 fifteen days after the date of mailing of the notice of revocation by
21 the director, and the ~~The~~ arrested person shall postmark or return
22 to the director a petition within ten days after the ~~receipt~~mailing
23 of the notice of revocation if the arrested person desires ~~a~~an
24 administrative license revocation hearing. The petition shall be in
25 writing and shall state the grounds on which the person is relying to

1 prevent the revocation from becoming effective. The hearing and any
2 prehearing conference may be conducted in person or by telephone,
3 television, or other electronic means at the discretion of the
4 director, and all parties may participate by such means at the
5 discretion of the director.

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

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

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

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

25 (B) Did the person refuse to submit to or fail to

1 complete a chemical test after being requested to do so by the peace
2 officer; or

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

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

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

12 (7)(a) Any arrested person who submits an application for
13 an ignition interlock permit in lieu of a petition for an
14 administrative license revocation hearing regarding the revocation of
15 his or her operator's license pursuant to this section shall complete
16 the application for an ignition interlock permit in which such person
17 acknowledges that he or she understands that he or she will have his
18 or her license administratively revoked pursuant to this section,
19 that he or she waives his or her right to a hearing to contest the
20 revocation, and that he or she understands that he or she is required
21 to have an ignition interlock permit in order to operate a motor
22 vehicle for the period of the revocation and shall include sufficient
23 evidence that an ignition interlock device is installed on one or
24 more vehicles that will be operated by the arrested person. Upon the
25 arrested person's completion of the ignition interlock permit

1 application process, the department shall issue the person an
2 ignition interlock permit, subject to any applicable requirements and
3 any applicable no-drive period if the person is otherwise eligible.

4 (b) An arrested person who is issued an ignition
5 interlock permit pursuant to this section shall receive day-for-day
6 credit for the period he or she has a valid ignition interlock permit
7 against the license revocation period imposed by the court arising
8 from the same incident.

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

12 (8) Any person who has not petitioned for an
13 administrative license revocation hearing and is subject to an
14 administrative license revocation may immediately apply for an
15 ignition interlock permit to use during the applicable period of
16 revocation set forth in section 60-498.02, subject to the following
17 additional restrictions:

18 (a) If such person submitted to a chemical test which
19 disclosed the presence of a concentration of alcohol in violation of
20 section 60-6,196 and has no prior administrative license revocations
21 on which final orders have been issued during the immediately
22 preceding fifteen-year period at the time the order of revocation is
23 issued, the ignition interlock permit will be immediately available
24 fifteen days after the date of arrest or the date notice of
25 revocation was provided to the arrested person, as long as he or she

1 is otherwise eligible for an ignition interlock permit, upon
2 completion of an application process for an ignition interlock
3 permit;

4 (b) If such person submitted to a chemical test which
5 disclosed the presence of a concentration of alcohol in violation of
6 section 60-6,196 and has one or more prior administrative license
7 revocations on which final orders have been issued during the
8 immediately preceding fifteen-year period at the time the order of
9 revocation is issued, the ignition interlock permit will be available
10 beginning fifteen days after the date of arrest or the date notice of
11 revocation was provided to the arrested person plus forty-five
12 additional days of no driving, as long as he or she is otherwise
13 eligible for an ignition interlock permit, upon completion of an
14 application process for an ignition interlock permit;

15 (c) If such person refused to submit to a chemical test
16 of blood, breath, or urine as required by section 60-6,197, the
17 ignition interlock permit will be available beginning fifteen days
18 after the date of arrest plus ninety additional days of no driving,
19 as long as he or she is otherwise eligible for an ignition interlock
20 permit, upon completion of an application process for an ignition
21 interlock permit; and

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

1 ~~(7)~~(9) The director shall adopt and promulgate rules and
2 regulations to govern the conduct of the administrative license
3 revocation hearing and insure that the hearing will proceed in an
4 orderly manner. The director may appoint a hearing officer to preside
5 at the hearing, administer oaths, examine witnesses, take testimony,
6 and report to the director. Any motion for discovery filed by the
7 petitioner shall entitle the prosecutor to receive full statutory
8 discovery from the petitioner upon a prosecutor's request to the
9 relevant court pursuant to section 29-1912 in any criminal proceeding
10 arising from the same arrest. A copy of the motion for discovery
11 shall be filed with the department and a copy provided to the
12 prosecutor in the jurisdiction in which the petitioner was arrested.
13 Incomplete discovery shall not stay the hearing unless the petitioner
14 requests a continuance. All proceedings before the hearing officer
15 shall be recorded. Upon receipt of the arresting peace officer's
16 sworn report, the director's order of revocation has prima facie
17 validity and it becomes the petitioner's burden to establish by a
18 preponderance of the evidence grounds upon which the operator's
19 license revocation should not take effect. The director shall make a
20 determination of the issue within seven days after the conclusion of
21 the hearing. A person whose operator's license is revoked following a
22 hearing requested pursuant to this section may appeal the order of
23 revocation as provided in section 60-498.04.

24 (10) Any person who tampers with or circumvents an
25 ignition interlock device installed pursuant to sections 60-498.01 to

1 60-498.04 or who operates a motor vehicle not equipped with a
2 functioning ignition interlock device required pursuant to such
3 sections or otherwise is in violation of the purposes for operation
4 indicated on the ignition interlock permit under such sections shall,
5 in addition to any possible criminal charges, have his or her
6 revocation period and ignition interlock permit extended for six
7 months beyond the end of the original revocation period.

8 Sec. 25. Section 60-498.02, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 60-498.02 (1) At the expiration of ~~thirty~~fifteen days
11 after the date of arrest as described in subsection (2) of section
12 60-6,197 or if after a hearing pursuant to section 60-498.01 the
13 director finds that the operator's license should be revoked, the
14 director shall (a) revoke the operator's license of a person arrested
15 for refusal to submit to a chemical test of blood, breath, or urine
16 as required by section 60-6,197 for a period of one year and (b)
17 revoke the operator's license of a person who submits to a chemical
18 test pursuant to such section which discloses the presence of a
19 concentration of alcohol specified in section 60-6,196 for a period
20 of ~~ninety~~one hundred eighty days unless the person's driving record
21 abstract maintained in the department's computerized records shows
22 one or more prior administrative license revocations on which final
23 orders have been issued during the immediately preceding ~~twelve-year~~
24 fifteen-year period at the time the order of revocation is issued, in
25 which case the period of revocation shall be one year. Except as

1 otherwise provided in section 60-6,211.05, a new operator's license
2 shall not be issued to such person until the period of revocation has
3 elapsed. If the person subject to the revocation is a nonresident of
4 this state, the director shall revoke only the nonresident's
5 operating privilege as defined in section 60-474 of such person and
6 shall immediately forward the operator's license and a statement of
7 the order of revocation to the person's state of residence.

8 ~~(2)(a) At the expiration of thirty days after an order of~~
9 ~~revocation is entered under subdivision (1)(b) of this section, any~~
10 ~~person whose operator's license has been administratively revoked for~~
11 ~~a period of ninety days for submitting to a chemical test pursuant to~~
12 ~~section 60-6,197 which disclosed the presence of a concentration of~~
13 ~~alcohol in violation of section 60-6,196 may make application to the~~
14 ~~director for issuance of an employment driving permit pursuant to~~
15 ~~section 60-4,130.~~

16 ~~(b) At the expiration of sixty days after an order of~~
17 ~~revocation is entered under subdivision (1)(a) of this section, any~~
18 ~~person whose operator's license has been administratively revoked for~~
19 ~~refusal to submit to a chemical test pursuant to section 60-6,197,~~
20 ~~may make application to the director for issuance of an employment~~
21 ~~driving permit pursuant to section 60-4,130 unless the person's~~
22 ~~driving record abstract maintained in the department's computerized~~
23 ~~records shows one or more prior administrative license revocations on~~
24 ~~which final orders have been issued during the immediately preceding~~
25 ~~twelve-year period at the time the order of revocation is issued.~~

1 ~~(3)(a) At the expiration of thirty days after an order of~~
2 ~~administrative license revocation for ninety days is entered under~~
3 ~~subdivision (1)(b) of this section, any person who submitted to a~~
4 ~~chemical test pursuant to section 60-6,197 which disclosed the~~
5 ~~presence of a concentration of alcohol in violation of section~~
6 ~~60-6,196 is eligible for an order to allow application for an~~
7 ~~ignition interlock permit to operate a motor vehicle equipped with an~~
8 ~~ignition interlock device pursuant to section 60-6,211.05 upon~~
9 ~~presentation of sufficient evidence to the department that such a~~
10 ~~device is installed.~~

11 ~~(b) At the expiration of sixty days after an order of~~
12 ~~administrative license revocation for one year is entered under~~
13 ~~subdivision (1)(b) of this section, any person who submitted to a~~
14 ~~chemical test pursuant to section 60-6,197 which disclosed the~~
15 ~~presence of a concentration of alcohol in violation of section~~
16 ~~60-6,196 is eligible for an order to allow application for an~~
17 ~~ignition interlock permit in order to operate a motor vehicle~~
18 ~~equipped with an ignition interlock device pursuant to section~~
19 ~~60-6,211.05 upon presentation of sufficient evidence to the~~
20 ~~department that such a device is installed.~~

21 ~~(c) At the expiration of sixty days after an order of~~
22 ~~administrative license revocation is entered under subdivision (1)(a)~~
23 ~~of this section, any person who refused to submit to a chemical test~~
24 ~~pursuant to section 60-6,197 is eligible for an order to allow~~
25 ~~application for an ignition interlock permit in order to operate a~~

1 ~~motor vehicle equipped with an ignition interlock device pursuant to~~
2 ~~section 60-6,211.05 upon presentation of sufficient evidence to the~~
3 ~~department that such a device is installed, unless the person's~~
4 ~~driving record abstract maintained in the department's computerized~~
5 ~~records shows one or more prior administrative license revocations on~~
6 ~~which final orders have been issued during the immediately preceding~~
7 ~~twelve-year period at the time the order of revocation is issued.~~

8 ~~(d)-(2) A person operating a motor vehicle pursuant to~~
9 ~~this subsection under an ignition interlock permit issued pursuant to~~
10 ~~sections 60-498.01 to 60-498.04 who has no previous convictions under~~
11 ~~section 60-6,196, 60-6,197, or 60-6,197.06 and no previous~~
12 ~~administrative license revocation shall only operate the motor~~
13 ~~vehicle to and from his or her residence, for purposes of his or her~~
14 ~~place of employment, his or her school, an alcohol a substance abuse~~
15 ~~treatment program, his or her parole or probation officer, his or her~~
16 ~~continuing health care or the continuing health care of another~~
17 ~~person who is dependent upon the person, his or her court-ordered~~
18 ~~community service responsibilities, or an ignition interlock service~~
19 ~~facility. A person operating a motor vehicle under an ignition~~
20 ~~interlock permit issued pursuant to sections 60-498.01 to 60-498.04~~
21 ~~who has a previous conviction under section 60-6,196, 60-6,197, or~~
22 ~~60-6,197.06 or a previous administrative license revocation shall~~
23 ~~only operate the motor vehicle to and from his or her residence for~~
24 ~~purposes of his or her employment, his or her school, or a substance~~
25 ~~abuse treatment program. Such permit shall indicate for which~~

1 purposes the permit may be used. All permits issued pursuant to this
2 subsection shall indicate that the permit is not valid for the
3 operation of any commercial motor vehicle.

4 ~~(4)~~(3) A person may have his or her eligibility for a
5 license reinstated upon payment of a reinstatement fee as required by
6 section 60-694.01.

7 ~~(5)(a)~~(4)(a) A person whose operator's license is
8 subject to revocation pursuant to subsection (3) of section 60-498.01
9 shall have all proceedings dismissed or his or her operator's license
10 immediately reinstated without payment of the reinstatement fee upon
11 receipt of suitable evidence by the director that:

12 ~~(i) Within the thirty day period following the date of~~
13 ~~arrest, the~~The prosecuting attorney responsible for the matter
14 declined to file a complaint alleging a violation of section
15 60-6,196; ~~and notified the director by first class mail or facsimile~~
16 ~~transmission of such decision and the director received such notice~~
17 ~~within such period or the notice was postmarked within such period;~~
18 ~~or~~

19 (ii) The defendant, after trial, was found not guilty of
20 violating section 60-6,196 or such charge was dismissed on the merits
21 by the court; or -

22 (iii) In the criminal action on the charge of a violation
23 of section 60-6,196 arising from the same incident, the court held
24 one of the following:

25 (A) The peace officer did not have probable cause to

1 believe the person was operating or in the actual physical control of
2 a motor vehicle in violation of section 60-6,196 or a city or village
3 ordinance enacted in conformance with such section; or

4 (B) The person was not operating or in the actual
5 physical control of a motor vehicle while having an alcohol
6 concentration in violation of section 60-6,196 or a city or village
7 ordinance enacted in conformance with such section.

8 (b) The director shall adopt and promulgate rules and
9 regulations establishing standards for the presentation of suitable
10 evidence of compliance with subdivision (a) of this subsection.

11 (c) If a criminal charge is filed or refiled for a
12 violation of section 60-6,196 pursuant to an arrest for which all
13 administrative license revocation proceedings were dismissed under
14 this subsection, the ~~prosecuting attorney shall notify the director~~
15 ~~by first class mail or facsimile transmission of the filing of such~~
16 ~~charge and the director, upon notification or discovery,~~ may
17 reinstate an administrative license revocation under this section as
18 of the date that the director receives notification of the filing or
19 refiling of the charge, except that a revocation shall not be
20 reinstated if it was dismissed pursuant to section 60-498.01.

21 Sec. 26. Section 60-498.03, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 60-498.03 (1) ~~The Director of Motor Vehicles~~ director
24 shall reduce the decision revoking an operator's license under
25 sections 60-498.01 to 60-498.04 to writing, and the director shall

1 notify the person in writing of the revocation. The notice shall set
2 forth the period of revocation and be served by mailing it to such
3 person ~~by certified or registered mail~~ to the address provided to the
4 director at the administrative license revocation hearing or, if the
5 person does not appear at the hearing, to the address appearing on
6 the records of the director. If the address on the director's records
7 differs from the address on the arresting peace officer's report, the
8 notice shall be sent to both addresses.

9 (2) If the director does not revoke the operator's
10 license, the director shall immediately notify the person in writing
11 of the decision. The notice shall set forth the time and place the
12 person may obtain his or her license. The notice shall be mailed ~~by~~
13 ~~certified or registered mail~~ as provided in subsection (1) of this
14 section. No reinstatement fee shall be charged for return of the
15 confiscated operator's license pursuant to this subsection.

16 Sec. 27. Section 60-498.04, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-498.04 Any person who feels himself or herself
19 aggrieved because of the revocation of his or her operator's license
20 under sections 60-498.01 to 60-498.04 may appeal therefrom to the
21 district court of the county where the alleged events occurred for
22 which he or she was arrested, and the appeal shall be in accordance
23 with ~~the Administrative Procedure Act.~~ section 84-917. The district
24 court shall allow any party to an appeal to appear by telephone at
25 any proceeding before the court for purposes of the appeal. Such

1 appeal shall not suspend the order of revocation, ~~until the final~~
2 ~~judgment of a court finds against the person so appealing.~~ The court
3 shall provide notice of the final judgment to the ~~Department of Motor~~
4 ~~Vehicles.~~ The ~~period of revocation shall commence at the time of~~
5 ~~final judgment of the court for the full period of the time of~~
6 ~~revocation.~~ department.

7 Sec. 28. Section 60-4,115, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-4,115 (1) Fees for operators' licenses and state
10 identification cards shall be collected and distributed according to
11 the table in subsection (2) of this section, except for the ignition
12 interlock permit and associated fees as outlined in subsection (4) of
13 this section. County officials shall remit the county portion of the
14 fees collected to the county treasurer for placement in the county
15 general fund. All other fees collected shall be remitted to the State
16 Treasurer for credit to the appropriate fund. The State Treasurer
17 shall transfer an amount equal to three dollars and fifty cents times
18 the number of original or renewal Class M licenses issued pursuant to
19 section 60-4,127 during the previous year from the Department of
20 Motor Vehicles Cash Fund to the Motorcycle Safety Education Fund.

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

24

Department

25

County of Motor State

	Document	Total	General	Vehicles	General
		Fee	Fund	Cash Fund	Fund
3	State identification card:				
4	Valid for 1 year or less		5.00	2.75	1.25
5	Valid for more than 1 year				
6	but not more than 2 years		10.00	2.75	4.00
7	Valid for more than 2 years				
8	but not more than 3 years		14.00	2.75	5.25
9	Valid for more than 3 years				
10	but not more than 4 years		19.00	2.75	8.00
11	Valid for more than 4 years				
12	for person under 21		24.00	2.75	10.25
13	Valid for 5 years		24.00	3.50	10.25
14	Duplicate or replacement		11.00	2.75	6.00
15	Class O or M operator's license:				
16	Valid for 1 year or less		5.00	2.75	1.25
17	Valid for more than 1 year				
18	but not more than 2 years		10.00	2.75	4.00
19	Valid for more than 2 years				
20	but not more than 3 years		14.00	2.75	5.25
21	Valid for more than 3 years				

1	but not more than 4 years	19.00	2.75	8.00	8.25
2	Valid for 5 years	24.00	3.50	10.25	10.25
3	Bioptic or telescopic lens restriction:				
4	Valid for 1 year or less	5.00	0	5.00	0
5	Valid for more than 1 year				
6	but not more than 2 years	10.00	2.75	4.00	3.25
7	Duplicate or 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	Provisional operator's permit:				
11	Original	15.00	2.75	12.25	0
12	Bioptic or telescopic lens 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	Duplicate or 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	Duplicate or replacement	11.00	2.75	6.00	2.25

1	Add, change, or remove class,				
2	endorsement, or restriction	5.00	0	5.00	0
3	LPE-learner's permit:				
4	Original	8.00	.25	5.00	2.75
5	Duplicate or replacement	11.00	2.75	6.00	2.25
6	Add, change, or remove class,				
7	endorsement, or restriction	5.00	0	5.00	0
8	School permit:				
9	Original	8.00	.25	5.00	2.75
10	Duplicate or replacement	11.00	2.75	6.00	2.25
11	Add, change, or remove class,				
12	endorsement, or restriction	5.00	0	5.00	0
13	Farm permit:				
14	Original or renewal	5.00	.25	0	4.75
15	Duplicate or replacement	5.00	.25	0	4.75
16	Temporary	5.00	.25	0	4.75
17	Add, change, or remove class,				
18	endorsement, or restriction	5.00	0	5.00	0
19	Driving permits:				
20	Employment	45.00	0	5.00	40.00
21	Medical hardship	45.00	0	5.00	40.00

1	Duplicate or replacement	10.00	.25	5.00	4.75
2	Add, change, or remove class,				
3	endorsement, or restriction	5.00	0	5.00	0
4	Commercial driver's license:				
5	Valid for 1 year or less	11.00	1.75	5.00	4.25
6	Valid for more than 1 year				
7	but not more than 2 years	22.00	1.75	5.00	15.25
8	Valid for more than 2 years				
9	but not more than 3 years	33.00	1.75	5.00	26.25
10	Valid for more than 3 years				
11	but not more than 4 years	44.00	1.75	5.00	37.25
12	Valid for 5 years	55.00	1.75	5.00	48.25
13	Bioptic or telescopic lens restriction:				
14	Valid for one year or less	11.00	1.75	5.00	4.25
15	Valid for more than 1 year				
16	but not more than 2 years	22.00	1.75	5.00	15.25
17	Duplicate or replacement	11.00	2.75	6.00	2.25
18	Add, change, or remove class,				
19	endorsement, or restriction	10.00	1.75	5.00	3.25
20	LPC-learner's permit:				
21	Original or renewal	10.00	.25	5.00	4.75

1	Duplicate or replacement	10.00	.25	5.00	4.75
2	Add, change, or remove class,				
3	endorsement, or restriction	10.00	.25	5.00	4.75
4	Seasonal permit:				
5	Original or renewal	10.00	.25	5.00	4.75
6	Duplicate or 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	School bus permit:				
10	Original or renewal	5.00	0	5.00	0
11	Duplicate or replacement	5.00	0	5.00	0
12	Add, change, or remove class,				
13	endorsement, or restriction	5.00	0	5.00	0

14 (3) If the department issues an operator's license or a
15 state identification card, the department shall remit the county
16 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
19 forty-five dollars. Five dollars of the fee shall be remitted to the
20 State Treasurer for credit to the Department of Motor Vehicles Cash
21 Fund. Forty dollars of the fee shall be remitted to the State
22 Treasurer for credit to the ~~Probation Cash~~ Department of Motor
23 Vehicles Ignition Interlock Fund.

1 (b) The fee for a duplicate or replacement ignition
2 interlock permit shall be ~~ten~~ eleven dollars. ~~Twenty-five~~ Two dollars
3 and seventy-five cents of the fee shall be remitted to the county
4 treasurer for credit to the county general fund. ~~Five~~ Six dollars of
5 the fee shall be remitted to the State Treasurer for credit to the
6 Department of Motor Vehicles Cash Fund. ~~Four~~ Two dollars and ~~seventy-~~
7 ~~five~~ twenty-five cents of the fee shall be remitted to the State
8 Treasurer for credit to the ~~Probation Cash~~ General Fund.

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

13 (5) This subsection applies beginning on the
14 implementation date designated by the director pursuant to section
15 60-462.02. The department and its agents may collect an identity
16 security surcharge to cover the cost of security and technology
17 practices used to protect the identity of applicants for and holders
18 of operators' licenses and state identification cards and to reduce
19 identity theft, fraud, and forgery and counterfeiting of such
20 licenses and cards to the maximum extent possible. The surcharge
21 shall be in addition to all other required fees for operators'
22 licenses and state identification cards. The amount of the surcharge
23 shall be determined by the department. The surcharge shall not exceed
24 eight dollars. The surcharge shall be remitted to the State Treasurer
25 for credit to the Department of Motor Vehicles Cash Fund.

1 Sec. 29. Section 60-4,118.06, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-4,118.06 (1) Upon receipt by the director of (a) a
4 certified copy of a court order issued pursuant to section
5 60-6,211.05, a certified copy of an order for installation of an
6 ignition interlock device and issuance of an ignition interlock
7 permit pursuant to ~~subdivision (1), (2), or (3) of section~~
8 60-6,197.03, or a copy of an order from the Board of Pardons pursuant
9 to section 83-1,127.02, (b) sufficient evidence that the person has
10 surrendered his or her operator's license to the ~~Department of Motor~~
11 ~~Vehicles department~~ and installed an approved ignition interlock
12 device in accordance with such order, and (c) payment of the fee
13 provided in section 60-4,115, such person may apply for an ignition
14 interlock permit. A person subject to administrative license
15 revocation under ~~section 60-498.02~~ sections 60-498.01 to 60-498.04
16 shall be eligible for an ignition interlock permit as provided in
17 such ~~section.~~ sections. The director shall issue an ignition
18 interlock permit for the operation of a motor vehicle equipped with
19 an ignition interlock device. Any person issued an ignition interlock
20 permit pursuant to a court order who has no previous convictions
21 under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous
22 administrative license revocation shall only operate the motor
23 vehicle equipped with an ignition interlock device to and from his or
24 her residence, for purposes of his or her place of employment, his or
25 her school, an alcohol a substance abuse treatment program, his or

1 her parole or probation officer, his or her continuing health care or
2 the continuing health care of another person who is dependent upon
3 the person, his or her court-ordered community service
4 responsibilities, or an ignition interlock service facility. Any
5 person issued an ignition interlock permit pursuant to a court order
6 who has a previous conviction under section 60-6,196, 60-6,197, or
7 60-6,197.06 and no previous administrative license revocation shall
8 only operate the motor vehicle to and from his or her residence for
9 purposes of his or her employment, his or her school, or a substance
10 abuse treatment program. The permit shall indicate for which purposes
11 the permit may be used. All permits issued pursuant to this
12 subsection shall indicate that the permit is not valid for the
13 operation of any commercial motor vehicle.

14 (2) Upon expiration of the revocation period or upon
15 expiration of an order issued by the Board of Pardons pursuant to
16 section 83-1,127.02, a person may apply to the department in writing
17 for issuance of an operator's license. Regardless of whether the
18 license surrendered by such person under subsection (1) of this
19 section has expired, the person shall apply for a new operator's
20 license pursuant to the Motor Vehicle Operator's License Act.

21 (3)(a) An ignition interlock permit shall not be issued
22 under this section or sections 60-498.01 to 60-498.04 to any person
23 except in cases of a violation of subdivision (3)(b) or (c) of
24 section 28-306, subdivision (3)(b) or (c) of section 28-394, section
25 60-6,196, 60-6,197, or 60-6,197.06, or section 2 of this act.

1 (b) An ignition interlock permit shall only be available
2 to a holder of a Class M or O operator's license.

3 (4) The director shall revoke a person's ignition
4 interlock permit issued under this section or sections 60-498.01 to
5 60-498.04 upon receipt of an (a) abstract of conviction indicating
6 that the person had his or her operating privileges revoked or
7 canceled or (b) administrative order revoking or canceling the
8 person's operating privileges, if such conviction or order resulted
9 from an incident other than the incident which resulted in the
10 application for the ignition interlock permit.

11 ~~(3) A person who operates a motor vehicle in violation of~~
12 ~~the purposes for operation indicated on the ignition interlock permit~~
13 ~~shall be guilty of a Class II misdemeanor, shall have his or her~~
14 ~~ignition interlock permit revoked, and shall serve the balance of any~~
15 ~~revocation period without the privilege to operate a motor vehicle~~
16 ~~using an ignition interlock device.~~

17 Sec. 30. Section 60-4,129, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 60-4,129 (1) Any ~~individual~~person whose operator's
20 license is revoked under section ~~60-498.02, 60-4,183,~~ or 60-4,186 or
21 suspended under section 43-3318 shall be eligible to operate any
22 motor vehicle, except a commercial motor vehicle, in this state under
23 an employment driving permit. An employment driving permit issued due
24 to a revocation under section ~~60-498.02, 60-4,183,~~ or 60-4,186 is
25 valid for the period of revocation. An employment driving permit

1 issued due to a suspension of an operator's license under section
2 43-3318 is valid for no more than three months and cannot be renewed.
3 ~~An employment driving permit shall not be issued to any person~~
4 ~~subject to an administrative license revocation who submitted to a~~
5 ~~chemical test pursuant to section 60-6,197 which disclosed the~~
6 ~~presence of a concentration of alcohol in violation of section~~
7 ~~60-6,196 if the person's driving record abstract maintained in the~~
8 ~~department's computerized records shows one or more prior~~
9 ~~administrative license revocations on which final orders have been~~
10 ~~issued during the immediately preceding twelve-year period at the~~
11 ~~time the order of revocation is issued.~~

12 (2) Any person whose operator's license has been
13 suspended or revoked pursuant to any law of this state, except
14 section 43-3318, ~~60-498.02,~~ 60-4,183, or 60-4,186, shall not be
15 eligible to receive an employment driving permit during the period of
16 such suspension or revocation.

17 (3) ~~An individual~~ A person who is issued an employment
18 driving permit may operate any motor vehicle, except a commercial
19 motor vehicle, (a) from his or her residence to his or her place of
20 employment and return and (b) during the normal course of employment
21 if the use of a motor vehicle is necessary in the course of such
22 employment. Such permit shall indicate for which purposes the permit
23 may be used. All permits issued pursuant to this section shall
24 indicate that the permit is not valid for the operation of any
25 commercial motor vehicle.

1 (4) The operation of a motor vehicle by the holder of an
2 employment driving permit, except as provided in this section, shall
3 be unlawful. Any person who violates this section shall be guilty of
4 a Class IV misdemeanor.

5 (5) The director shall revoke ~~the~~ a person's employment
6 driving permit ~~for an individual~~ upon receipt of an abstract of
7 conviction, other than a conviction which is based upon actions which
8 resulted in the application for such employment driving permit,
9 indicating that the ~~individual~~ person committed an offense for which
10 points are assessed pursuant to section 60-4,182. If the permit is
11 revoked in this manner, the ~~individual~~ person shall not be eligible
12 to receive an employment driving permit for the remainder of the
13 period of suspension or revocation of his or her operator's license.

14 Sec. 31. Section 60-4,164, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 60-4,164 (1) Any person who operates or is in the actual
17 physical control of a commercial motor vehicle upon a highway in this
18 state shall be deemed to have given his or her consent to submit to a
19 chemical test or tests of his or her blood or breath for the purpose
20 of determining the amount of alcoholic content in his or her blood or
21 breath.

22 (2) Any law enforcement officer who has been duly
23 authorized to make arrests for violations of traffic laws of this
24 state or of ordinances of any city or village who, after stopping or
25 detaining the operator of any commercial motor vehicle, has

1 reasonable grounds to believe that the operator was driving or in the
2 actual physical control of a commercial motor vehicle while having
3 any alcoholic liquor in his or her body may require such operator to
4 submit to a chemical test or tests of his or her blood or breath for
5 the purpose of determining the alcoholic content of such blood or
6 breath.

7 (3) Any law enforcement officer who has been duly
8 authorized to make arrests for violations of traffic laws of this
9 state or of ordinances of any city or village may require any person
10 who operates or has in his or her actual physical control a
11 commercial motor vehicle upon a highway in this state to submit to a
12 preliminary breath test of his or her breath for alcoholic content if
13 the officer has reasonable grounds to believe that such person has
14 any alcoholic liquor in his or her body, has committed a moving
15 traffic violation, or has been involved in a traffic accident. Any
16 such person who refuses to submit to a preliminary breath test shall
17 be placed under arrest and shall be guilty of a Class V misdemeanor.
18 Any person arrested for refusing to submit to a preliminary breath
19 test or any person who submits to a preliminary breath test the
20 results of which indicate the presence of any alcoholic liquor in
21 such person's body may, upon the direction of a law enforcement
22 officer, be required to submit to a chemical test or tests of his or
23 her blood or breath for a determination of the alcoholic content.

24 (4) Any person operating or in the actual physical
25 control of a commercial motor vehicle who submits to a chemical test

1 or tests of his or her blood or breath which discloses the presence
2 of any alcoholic liquor in his or her body shall be placed out of
3 service for twenty-four hours by the law enforcement officer.

4 (5) Any person operating or in the actual physical
5 control of a commercial motor vehicle who refuses to submit to a
6 chemical test or tests of his or her blood or breath or any person
7 operating or in the actual physical control of a commercial motor
8 vehicle who submits to a chemical test or tests of his or her blood
9 or breath which discloses an alcoholic concentration of: (a) Four-
10 hundredths of one gram or more by weight of alcohol per one hundred
11 milliliters of his or her blood or (b) four-hundredths of one gram or
12 more by weight of alcohol per two hundred ten liters of his or her
13 breath shall be placed out of service for twenty-four hours by the
14 law enforcement officer, and the officer shall forward to the
15 director a sworn report. The director may accept a sworn report
16 submitted electronically. The report shall state that the person was
17 operating or in the actual physical control of a commercial motor
18 vehicle, was requested to submit to the required chemical test or
19 tests, and refused to submit to the required chemical test or tests
20 or submitted to the required chemical test or tests and possessed an
21 alcohol concentration at or in excess of that specified by this
22 subsection.

23 (6) Any person involved in a commercial motor vehicle
24 accident in this state may be required to submit to a chemical test
25 or tests of his or her blood or breath by any law enforcement officer

1 if the officer has reasonable grounds to believe that such person was
2 driving or was in actual physical control of a commercial motor
3 vehicle on a highway in this state while under the influence of
4 alcoholic liquor at the time of the accident. A person involved in a
5 commercial motor vehicle accident subject to the implied consent law
6 of this state shall not be deemed to have withdrawn consent to submit
7 to a chemical test or tests of his or her blood or breath by reason
8 of leaving this state. If the person refuses a test or tests under
9 this section and leaves the state for any reason following an
10 accident, he or she shall remain subject to this section upon return.

11 Sec. 32. Section 60-601, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-601 Sections 60-601 to 60-6,379 and sections 38 and 41
14 of this act shall be known and may be cited as the Nebraska Rules of
15 the Road.

16 Sec. 33. Section 60-6,197, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-6,197 (1) Any person who operates or has in his or her
19 actual physical control a motor vehicle in this state shall be deemed
20 to have given his or her consent to submit to a chemical test or
21 tests of his or her blood, breath, or urine for the purpose of
22 determining the concentration of alcohol or the presence of drugs in
23 such blood, breath, or urine.

24 (2) Any peace officer who has been duly authorized to
25 make arrests for violations of traffic laws of this state or of

1 ordinances of any city or village may require any person arrested for
2 any offense arising out of acts alleged to have been committed while
3 the person was driving or was in actual physical control of a motor
4 vehicle while under the influence of alcoholic liquor or drugs to
5 submit to a chemical test or tests of his or her blood, breath, or
6 urine for the purpose of determining the concentration of alcohol or
7 the presence of drugs in such blood, breath, or urine when the
8 officer has reasonable grounds to believe that such person was
9 driving or was in the actual physical control of a motor vehicle in
10 this state while under the influence of alcoholic liquor or drugs in
11 violation of section 60-6,196.

12 (3) Any person arrested as described in subsection (2) of
13 this section may, upon the direction of a peace officer, be required
14 to submit to a chemical test or tests of his or her blood, breath, or
15 urine for a determination of the concentration of alcohol or the
16 presence of drugs. If the chemical test discloses the presence of a
17 concentration of alcohol in violation of subsection (1) of section
18 60-6,196, the person shall be subject to the administrative license
19 revocation procedures provided in sections 60-498.01 to 60-498.04 and
20 upon conviction ~~shall~~ be punished as provided in sections 60-6,197.02
21 to 60-6,197.08. Any person who refuses to submit to such test or
22 tests required pursuant to this section shall be subject to the
23 administrative license revocation procedures provided in sections
24 60-498.01 to 60-498.04 and shall be guilty of a crime and upon
25 conviction punished as provided in sections 60-6,197.02 to

1 60-6,197.08.

2 (4) Any person involved in a motor vehicle accident in
3 this state may be required to submit to a chemical test or tests of
4 his or her blood, breath, or urine by any peace officer if the
5 officer has reasonable grounds to believe that the person was driving
6 or was in actual physical control of a motor vehicle on a public
7 highway in this state while under the influence of alcoholic liquor
8 or drugs at the time of the accident. A person involved in a motor
9 vehicle accident subject to the implied consent law of this state
10 shall not be deemed to have withdrawn consent to submit to a chemical
11 test of his or her blood, breath, or urine by reason of leaving this
12 state. If the person refuses a test under this section and leaves the
13 state for any reason following an accident, he or she shall remain
14 subject to subsection (3) of this section and ~~section 60-498.02~~
15 sections 60-498.01 to 60-498.04 upon return.

16 (5) Any person who is required to submit to a chemical
17 blood, breath, or urine test or tests pursuant to this section shall
18 be advised that refusal to submit to such test or tests is a separate
19 crime for which the person may be charged. Failure to provide such
20 advisement shall not affect the admissibility of the chemical test
21 result in any legal proceedings. However, failure to provide such
22 advisement shall negate the state's ability to bring any criminal
23 charges against a refusing party pursuant to this section.

24 (6) Refusal to submit to a chemical blood, breath, or
25 urine test or tests pursuant to this section shall be admissible

1 evidence in any action for a violation of section 60-6,196 or a city
2 or village ordinance enacted in conformance with such section.

3 Sec. 34. Section 60-6,197.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-6,197.02 (1) A violation of section 60-6,196 or
6 60-6,197 shall be punished as provided in section 60-6,197.03. For
7 purposes of sentencing under section 60-6,197.03:

8 (a) Prior conviction means a conviction for a violation
9 committed within the ~~twelve-year~~ fifteen-year period prior to the
10 offense for which the sentence is being imposed as follows:

11 (i) For a violation of section 60-6,196:

12 (A) Any conviction for a violation of subdivision (3)(b)
13 or (c) of section 28-306, subdivision (3)(b) or (c) of section
14 28-394, section 60-6,196, 60-6,197, or 60-6,198, or section 2 of this
15 act;

16 (B) Any conviction for a violation of a city or village
17 ordinance enacted in conformance with section 60-6,196 or 60-6,197;
18 or

19 (C) Any conviction under a law of another state if, at
20 the time of the conviction under the law of such other state, the
21 offense for which the person was convicted would have been a
22 violation of subdivision (3)(b) or (c) of section 28-306, subdivision
23 (3)(b) or (c) of section 28-394, section 60-6,196, 60-6,197, or
24 60-6,198, or section 2 of this act; or

25 ~~(D) Any conviction for a violation of section 60-6,198;~~

1 or

2 (ii) For a violation of section 60-6,197:

3 (A) Any conviction for a violation of subdivision (3)(b)
4 or (c) of section 28-306, subdivision (3)(b) or (c) of section
5 28-394, section 60-6,196, 60-6,197, or 60-6,198, or section 2 of this
6 act;

7 (B) Any conviction for a violation of a city or village
8 ordinance enacted in conformance with section 60-6,196 or 60-6,197;

9 or

10 (C) Any conviction under a law of another state if, at
11 the time of the conviction under the law of such other state, the
12 offense for which the person was convicted would have been a
13 violation of subdivision (3)(b) or (c) of section 28-306, subdivision
14 (3)(b) or (c) of section 28-394, section 60-6,196, 60-6,197, or
15 60-6,198, or section 2 of this act;

16 (b) Prior conviction includes any conviction under
17 subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b) or
18 (c) of section 28-394, section 60-6,196, 60-6,197, or 60-6,198, or
19 section 2 of this act, or any city or village ordinance enacted in
20 conformance with any of such sections, section 60-6,196 or 60-6,197,
21 as such sections or city or village ordinances existed at the time of
22 such conviction regardless of subsequent amendments to any of such
23 sections or city or village ordinances; and

24 (c) ~~Twelve-year~~ Fifteen-year period means the period
25 computed from the date of the prior offense to the date of the

1 offense which resulted in the conviction for which the sentence is
2 being imposed.

3 (2) In any case charging a violation of section 60-6,196
4 or 60-6,197, the prosecutor or investigating agency shall use due
5 diligence to obtain the person's driving record from the Department
6 of Motor Vehicles and the person's driving record from other states
7 where he or she is known to have resided within the last ~~twelve~~
8 fifteen years. The prosecutor shall certify to the court, prior to
9 sentencing, that such action has been taken. The prosecutor shall
10 present as evidence for purposes of sentence enhancement a court-
11 certified copy or an authenticated copy of a prior conviction in
12 another state. The court-certified or authenticated copy shall be
13 prima facie evidence of such prior conviction.

14 (3) For each conviction for a violation of section
15 60-6,196 or 60-6,197, the court shall, as part of the judgment of
16 conviction, make a finding on the record as to the number of the
17 convicted person's prior convictions. The convicted person shall be
18 given the opportunity to review the record of his or her prior
19 convictions, bring mitigating facts to the attention of the court
20 prior to sentencing, and make objections on the record regarding the
21 validity of such prior convictions.

22 (4) A person arrested for a violation of section 60-6,196
23 or 60-6,197 before ~~May 14, 2009,~~ the operative date of this act but
24 sentenced pursuant to section 60-6,197.03 for such violation on or
25 after ~~May 14, 2009,~~ the operative date of this act shall be sentenced

1 according to the provisions of section 60-6,197.03 in effect on the
2 date of arrest.

3 Sec. 35. Section 60-6,197.03, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-6,197.03 Any person convicted of a violation of
6 section 60-6,196 or 60-6,197 shall be punished as follows:

7 (1) Except as provided in subdivision (2) of this
8 section, if such person has not had a prior conviction, such person
9 shall be guilty of a Class W misdemeanor, and the court shall, as
10 part of the judgment of conviction, order that the operator's license
11 of such person be revoked ~~or impounded~~ for a period of six months
12 from the date ordered by the court. ~~If the court orders the person's~~
13 ~~operator's license impounded, the court shall also order that the~~
14 ~~person shall not operate a motor vehicle for a period of six months~~
15 ~~and shall not order the installation of an ignition interlock device~~
16 ~~or an ignition interlock permit. If the court orders the person's~~
17 ~~operator's license revoked, the revocation period shall be for six~~
18 ~~months. The revocation order shall require that the person not drive~~
19 ~~for a period of thirty days, after which the court may order that the~~
20 ~~person apply for an ignition interlock permit pursuant to section~~
21 ~~60-6,211.05 for the remainder of the revocation period and have an~~
22 ~~ignition interlock device installed on any motor vehicle he or she~~
23 ~~operates during the remainder of the revocation period. Such~~
24 ~~revocation or impoundment shall be administered upon sentencing, upon~~
25 ~~final judgment of any appeal or review, or upon the date that any~~

1 probation is revoked.

2 If the court places such person on probation or suspends
3 the sentence for any reason, the court shall, as one of the
4 conditions of probation or sentence suspension, order that the
5 operator's license of such person be revoked for a period of sixty
6 days from the date ordered by the court. The court ~~may~~shall order
7 that during the period of revocation the person apply for an ignition
8 interlock permit ~~and the installation of an ignition interlock device~~
9 pursuant to section 60-6,211.05. Such order of probation or sentence
10 suspension shall also include, as one of its conditions, the payment
11 of a four-hundred-dollar fine;

12 (2) If such person has not had a prior conviction and, as
13 part of the current violation, had a concentration of fifteen-
14 hundredths of one gram or more by weight of alcohol per one hundred
15 milliliters of his or her blood or fifteen-hundredths of one gram or
16 more by weight of alcohol per two hundred ten liters of his or her
17 breath, such person shall be guilty of a Class W misdemeanor, and the
18 court shall, as part of the judgment of conviction, revoke the
19 operator's license of such person for a period of one year from the
20 date ordered by the court. The revocation order shall require ~~that~~
21 ~~the person not drive for a period of sixty days, after which the~~
22 ~~court may order that~~ the person apply for an ignition interlock
23 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for ~~the~~
24 ~~remainder of the~~ revocation period and have an ignition interlock
25 device installed on any motor vehicle he or she operates during ~~the~~

1 ~~remainder of~~ the revocation period. Such revocation shall be
2 administered upon sentencing, upon final judgment of any appeal or
3 review, or upon the date that any probation is revoked.

4 If the court places such person on probation or suspends
5 the sentence for any reason, the court shall, as one of the
6 conditions of probation or sentence suspension, order that the
7 operator's license of such person be revoked for a period of one year
8 from the date ordered by the court. The revocation order shall
9 ~~require that the person not drive for a period of forty five days,~~
10 ~~after which the court may order~~ that the person apply for an ignition
11 interlock permit pursuant to subdivision (1)(b) of section
12 60-6,197.01 for ~~the remainder of~~ the revocation period and have an
13 ignition interlock device installed on any motor vehicle he or she
14 operates during ~~the remainder of~~ the revocation period. Such
15 revocation shall be administered upon sentencing, upon final judgment
16 of any appeal or review, or upon the date that any probation is
17 revoked. Such order of probation or sentence suspension shall also
18 include, as conditions, the payment of a five-hundred-dollar fine and
19 either confinement in the city or county jail for two days or the
20 imposition of not less than one hundred twenty hours of community
21 service;

22 (3) Except as provided in subdivision (5) of this
23 section, if such person has had one prior conviction, such person
24 shall be guilty of a Class W misdemeanor, and the court shall, as
25 part of the judgment of conviction, order that the operator's license

1 of such person be revoked for a period of one year from the date
2 ordered by the court. The revocation order shall require that the
3 person not drive for a period of ~~sixty~~forty-five days, after which
4 the court ~~may~~shall order that the person apply for an ignition
5 interlock permit for the remainder of the revocation period and have
6 an ignition interlock device installed on any motor vehicle he or she
7 owns or operates during the remainder of the revocation period and
8 shall issue an order pursuant to subdivision (1)(b) of section
9 60-6,197.01. Such revocation shall be administered upon sentencing,
10 upon final judgment of any appeal or review, or upon the date that
11 any probation is revoked.

12 If the court places such person on probation or suspends
13 the sentence for any reason, the court shall, as one of the
14 conditions of probation or sentence suspension, order that the
15 operator's license of such person be revoked for a period of one year
16 from the date ordered by the court. The revocation order shall
17 require that the person not drive for a period of forty-five days,
18 after which the court ~~may~~shall order that during the period of
19 revocation the person apply for an ignition interlock permit and
20 installation of an ignition interlock device pursuant to section
21 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b)
22 of section 60-6,197.01. Such order of probation or sentence
23 suspension shall also include, as conditions, the payment of a five-
24 hundred-dollar fine and either confinement in the city or county jail
25 for ten days or the imposition of not less than two hundred forty

1 hours of community service;

2 (4) Except as provided in subdivision (6) of this
3 section, if such person has had two prior convictions, such person
4 shall be guilty of a Class W misdemeanor, and the court shall, as
5 part of the judgment of conviction, order that the operator's license
6 of such person be revoked for a period of fifteen years from the date
7 ordered by the court and shall issue an order pursuant to section
8 60-6,197.01. Such orders shall be administered upon sentencing, upon
9 final judgment of any appeal or review, or upon the date that any
10 probation is revoked.

11 If the court places such person on probation or suspends
12 the sentence for any reason, the court shall, as one of the
13 conditions of probation or sentence suspension, order that the
14 operator's license of such person be revoked for a period of at least
15 two years but not more than fifteen years from the date ordered by
16 the court. The revocation order shall require that the person not
17 drive for a period of forty-five days, after which the court may
18 order that during the period of revocation the person apply for an
19 ignition interlock permit and installation of an ignition interlock
20 device issued pursuant to section 60-6,211.05 and shall issue an
21 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
22 order of probation or sentence suspension shall also include, as
23 conditions, the payment of a six-hundred-dollar fine and confinement
24 in the city or county jail for thirty days;

25 (5) If such person has had one prior conviction and, as

1 part of the current violation, had a concentration of fifteen-
2 hundredths of one gram or more by weight of alcohol per one hundred
3 milliliters of his or her blood or fifteen-hundredths of one gram or
4 more by weight of alcohol per two hundred ten liters of his or her
5 breath or refused to submit to a test as required under section
6 60-6,197, such person shall be guilty of a Class I misdemeanor, and
7 the court shall, as part of the judgment of conviction, revoke the
8 operator's license of such person for a period of at least one year
9 but not more than fifteen years from the date ordered by the court
10 and shall issue an order pursuant to section 60-6,197.01. Such
11 revocation and order shall be administered upon sentencing, upon
12 final judgment of any appeal or review, or upon the date that any
13 probation is revoked. The court shall also sentence such person to
14 serve at least ninety days' imprisonment in the city or county jail
15 or an adult correctional facility.

16 If the court places such person on probation or suspends
17 the sentence for any reason, the court shall, as one of the
18 conditions of probation or sentence suspension, order that the
19 operator's license of such person be revoked for a period of at least
20 one year but not more than fifteen years from the date ordered by the
21 court. The revocation order shall require that the person not drive
22 for a period of forty-five days, after which the court may order that
23 during the period of revocation the person apply for an ignition
24 interlock permit and installation of an ignition interlock device
25 issued pursuant to section 60-6,211.05 and shall issue an order

1 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of
2 probation or sentence suspension shall also include, as conditions,
3 the payment of a one-thousand-dollar fine and confinement in the city
4 or county jail for thirty days;

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

20 If the court places such person on probation or suspends
21 the sentence for any reason, the court shall, as one of the
22 conditions of probation or sentence suspension, order that the
23 operator's license of such person be revoked for a period of at least
24 five years but not more than fifteen years from the date ordered by
25 the court. The revocation order shall require that the person not

1 drive for a period of forty-five days, after which the court may
2 order that during the period of revocation the person apply for an
3 ignition interlock permit and installation of an ignition interlock
4 device issued pursuant to section 60-6,211.05 and shall issue an
5 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
6 order of probation or sentence suspension shall also include, as
7 conditions, the payment of a one-thousand-dollar fine, ~~and~~
8 confinement in the city or county jail for sixty days, and, upon
9 release from such confinement, the use of a continuous alcohol
10 monitoring device and abstention from alcohol use at all times for no
11 less than sixty days;

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

23 If the court places such person on probation or suspends
24 the sentence for any reason, the court shall, as one of the
25 conditions of probation or sentence suspension, order that the

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

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

1 the date that any probation is revoked.

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

18 (9) Except as provided in subdivision (10) of this
19 section, if such person has had four or more prior convictions, such
20 person shall be guilty of a Class III felony, and the court shall, as
21 part of the judgment of conviction, order that the operator's license
22 of such person be revoked for a period of fifteen years from the date
23 ordered by the court and shall issue an order pursuant to section
24 60-6,197.01. Such orders shall be administered upon sentencing, upon
25 final judgment of any appeal or review, or upon the date that any

1 probation is revoked.

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

18 (10) If such person has had four or more prior
19 convictions and, as part of the current violation, had a
20 concentration of fifteen-hundredths of one gram or more by weight of
21 alcohol per one hundred milliliters of his or her blood or fifteen-
22 hundredths of one gram or more by weight of alcohol per two hundred
23 ten liters of his or her breath or refused to submit to a test as
24 required under section 60-6,197, such person shall be guilty of a
25 Class II felony and the court shall, as part of the judgment of

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

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

22 Sec. 36. Section 60-6,197.05, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 60-6,197.05 Any period of revocation imposed by the court
25 for a violation of section 60-6,196 or 60-6,197 shall be reduced by

1 any period of revocation imposed under sections 60-498.01 to
2 60-498.04, including any period during which a person has a valid
3 ignition interlock permit, arising from the same incident. ~~section~~
4 ~~60-498.02. Any period of revocation imposed under subdivision (1) of~~
5 ~~section 60-6,197.03 for a violation of section 60-6,196 or 60-6,197~~
6 ~~or under subdivision (2)(a) of section 60-6,196, as such section~~
7 ~~existed prior to July 16, 2004, shall not prohibit the operation of a~~
8 ~~motor vehicle under the terms and conditions of an employment driving~~
9 ~~permit issued pursuant to subsection (2) of section 60-498.02.~~

10 Sec. 37. Section 60-6,197.09, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 60-6,197.09 Notwithstanding the provisions of section
13 ~~60-498.02 or 60-6,197.03~~, a person who commits a violation punishable
14 under subdivision (3)(b) or (c) of section 28-306 or subdivision (3)
15 (b) or (c) of section 28-394 or a violation of section 60-6,196,
16 60-6,197, or 60-6,198 while participating in criminal proceedings for
17 a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or
18 village ordinance enacted in accordance with section 60-6,196 or
19 60-6,197, or a law of another state if, at the time of the violation
20 under the law of such other state, the offense for which the person
21 was charged would have been a violation of section 60-6,197, shall
22 not be eligible to receive a sentence of probation, or a suspended
23 sentence, ~~or an employment driving permit authorized under subsection~~
24 ~~(2) of section 60-498.02~~ for either violation committed in this
25 state.

1 Sec. 38. The Department of Motor Vehicles shall conduct
2 an ongoing public education campaign to inform the residents of this
3 state about the dangers and consequences of driving under the
4 influence of alcohol or drugs in this state. Information shall
5 include, but not be limited to, the criminal and administrative
6 penalties for driving under the influence, any related laws, rules,
7 instructions, and any explanatory matter. The department shall use
8 its best efforts to utilize all available opportunities for making
9 public service announcements on television and radio broadcasts for
10 the public education campaign and to obtain and utilize federal funds
11 for highway safety and other grants in conducting the public
12 education campaign. The information may be included in publications
13 containing information related to other motor vehicle laws and shall
14 be given wide distribution by the department.

15 Sec. 39. Section 60-6,198, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 60-6,198 (1) Any person who, while operating a motor
18 vehicle in violation of section 60-6,196 or 60-6,197, proximately
19 causes serious bodily injury to another person or an unborn child of
20 a pregnant woman shall be guilty of a Class IIIA felony and the court
21 shall, as part of the judgment of conviction, order the person not to
22 drive any motor vehicle for any purpose for a period of at least
23 sixty days and not more than fifteen years from the date ordered by
24 the court and shall order that the operator's license of such person
25 be revoked for the same period.

1 (2) For purposes of this section, serious bodily injury
2 shall mean bodily injury which involves a substantial risk of death,
3 a substantial risk of serious permanent disfigurement, or a temporary
4 or protracted loss or impairment of the function of any part or organ
5 of the body.

6 (3) For purposes of this section, unborn child shall have
7 the same meaning as in section 28-396.

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

12 Sec. 40. Section 60-6,211.05, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 60-6,211.05 ~~(1)(a)~~ (1) If an order is granted under
15 ~~section 60-6,196 or 60-6,197, as such sections existed prior to July~~
16 ~~16, 2004, or section 60-6,196 or 60-6,197 and sections 60-6,197.02~~
17 ~~and 60-6,197.03, as such sections existed on or after July 16, 2004,~~
18 the court may order that the defendant install an ignition interlock
19 device of a type approved by the Director of Motor Vehicles on each
20 motor vehicle operated by the defendant during the period of
21 ~~probation.~~ revocation. Upon sufficient evidence of installation, the
22 defendant may apply to the director for an ignition interlock permit
23 pursuant to section 60-4,118.06. The device shall, without tampering
24 or the intervention of another person, prevent the defendant from
25 operating the motor vehicle when the defendant has an alcohol

1 concentration greater than three-hundredths of one gram or more by
2 weight of alcohol per one hundred milliliters of his or her blood or
3 three-hundredths of one gram or more by weight of alcohol per two
4 hundred ten liters of his or her breath. The Department of Motor
5 Vehicles shall issue an ignition interlock permit to the defendant
6 under section 60-4,118.06 only upon sufficient proof that a defendant
7 has installed an ignition interlock device on any motor vehicle that
8 the defendant will operate during his or her release.

9 ~~(b) If the court orders an ignition interlock permit and~~
10 ~~installation of an ignition interlock device as part of the judgment~~
11 ~~of conviction pursuant to section 60-6,197.03, the device shall be of~~
12 ~~a type approved by the director and shall be installed on each motor~~
13 ~~vehicle operated by the defendant. The device shall, without~~
14 ~~tampering or the intervention of another person, prevent the~~
15 ~~defendant from operating the motor vehicle when the defendant has an~~
16 ~~alcohol concentration greater than three-hundredths of one gram or~~
17 ~~more by weight of alcohol per one hundred milliliters of his or her~~
18 ~~blood or three-hundredths of one gram or more by weight of alcohol~~
19 ~~per two hundred ten liters of his or her breath.~~

20 (2) If the court orders installation of an ignition
21 interlock device and issuance of an ignition interlock permit
22 pursuant to subsection (1) of this section, the court may also order
23 the use of a continuous alcohol monitoring device and abstention from
24 alcohol use at all times. The device shall, without tampering or the
25 intervention of another person, test and record the alcohol

1 consumption level of the defendant on a periodic basis and transmit
2 such information to probation authorities.

3 (3) Any order issued by the court pursuant to this
4 section shall not take effect until the defendant is eligible to
5 operate a motor vehicle pursuant to subsection ~~(3)~~(8) of section
6 ~~60-498.02.~~ 60-498.01. A person shall be eligible to be issued an
7 ignition interlock permit allowing operation of a motor vehicle
8 equipped with an ignition interlock device if he or she is not
9 subject to any other suspension, cancellation, required no-driving
10 period, or period of revocation and has successfully completed the
11 ignition interlock permit application process. The Department of
12 Motor Vehicles shall review its records and the driving record
13 abstract of any person who applies for an ignition interlock permit
14 allowing operation of a motor vehicle equipped with an ignition
15 interlock device to determine (a) the applicant's eligibility for an
16 ignition interlock permit, (b) the applicant's previous convictions
17 under section 60-6,196, 60-6,197, or 60-6,197.06 or any previous
18 administrative license revocation, if any, (c) if the applicant is
19 subject to any required no-drive periods before the ignition
20 interlock permit may be issued, and (d) the permitted driving uses to
21 be allowed to that person on his or her ignition interlock permit.

22 (4)(a) If the court orders an ignition interlock device
23 or the Board of Pardons orders an ignition interlock device under
24 section 83-1,127.02, the court or the Board of Pardons shall order
25 the defendant to apply for an ignition interlock permit as provided

1 in section 60-4,118.06 which indicates that the defendant is only
2 allowed to operate a motor vehicle equipped with an ignition
3 interlock device.

4 (b) Such court order shall remain in effect for a period
5 of time as determined by the court not to exceed the maximum term of
6 revocation which the court could have imposed according to the nature
7 of the violation and shall allow operation by the defendant of an
8 ignition-interlock-equipped motor vehicle only ~~to and~~ (i) if the
9 defendant has no previous conviction under section 60-6,196,
10 60-6,197, or 60-6,197.06 and no previous administrative license
11 revocation, to and from the defendant's his or her residence, the
12 defendant's place of for purposes of his or her employment, the
13 defendant's his or her school, an alcohol a substance abuse treatment
14 program, his or her probation officer, his or her continuing health
15 care or the continuing health care of another person who is dependent
16 upon the person, his or her court-ordered community service
17 responsibilities, or an ignition interlock service facility or (ii)
18 if the defendant has a previous conviction under section 60-6,196,
19 60-6,197, or 60-6,197.06 or a previous administrative license
20 revocation, to and from his or her residence for purposes of his or
21 her employment, his or her school, or a substance abuse treatment
22 program.

23 (c) Such Board of Pardons order shall remain in effect
24 for a period of time not to exceed any period of revocation the
25 applicant is subject to at the time the application for a reprieve is

1 made.

2 ~~(5) A person who tampers with or circumvents an ignition~~
3 ~~interlock device installed under a court order while the order is in~~
4 ~~effect, who operates a motor vehicle which is not equipped with an~~
5 ~~ignition interlock device in violation of a court order made pursuant~~
6 ~~to this section, or who otherwise operates a motor vehicle equipped~~
7 ~~with an ignition interlock device in violation of the requirements of~~
8 ~~the court order under which the device was installed shall be guilty~~
9 ~~of a Class II misdemeanor.~~

10 ~~(6)–(5)~~ Any person restricted to operating a motor
11 vehicle equipped with an ignition interlock device, pursuant to a
12 Board of Pardons order, who operates upon the highways of this state
13 a motor vehicle without such device or if the device has been
14 disabled, bypassed, or altered in any way, shall be punished as
15 provided in subsection (3) of section 83-1,127.02.

16 ~~(7)–(6)~~ If a person ordered to use a continuous alcohol
17 monitoring device and abstain from alcohol use pursuant to a court
18 order as provided in subsection (2) of this section violates the
19 provisions of such court order by removing, tampering with, or
20 otherwise bypassing the continuous alcohol monitoring device or by
21 consuming alcohol while required to use such device, he or she shall
22 have his or her ignition interlock permit revoked and be unable to
23 apply for reinstatement for the duration of the revocation period
24 imposed by the court.

25 ~~(8)–(7)~~ The director shall adopt and promulgate rules and

1 regulations regarding the approval of ignition interlock devices, the
2 means of installing ignition interlock devices, and the means of
3 administering the ignition interlock permit program.

4 ~~(9)-(8)(a)~~ The costs incurred in order to comply with the
5 ignition interlock requirements of this section shall be paid
6 directly to the ignition interlock provider by the person complying
7 with an order for an ignition interlock permit and installation of an
8 ignition interlock device, ~~unless~~

9 (b) If the Department of Motor Vehicles has determined
10 the person to be indigent and incapable of paying for the cost of
11 installation, removal, or maintenance of the ignition interlock
12 device in accordance with this section, such costs shall be paid out
13 of the Department of Motor Vehicles Ignition Interlock Fund if such
14 funds are available, according to rules and regulations adopted and
15 promulgated by the department. Such costs shall also be paid out of
16 the Department of Motor Vehicles Ignition Interlock Fund if such
17 funds are available and if the court or the Board of Pardons,
18 whichever is applicable, has determined the person to be indigent and
19 incapable of paying for the cost of installation, removal, or
20 maintenance of the ignition interlock device in accordance with this
21 ~~subsection.~~ section. The Department of Motor Vehicles Ignition
22 Interlock Fund is created. Any money in the fund available for
23 investment shall be invested by the state investment officer pursuant
24 to the Nebraska Capital Expansion Act and the Nebraska State Funds
25 Investment Act.

1 ~~(10)(a)-(9)(a)(i)~~ An ignition interlock service facility
2 shall notify the appropriate district probation office, ~~if the order~~
3 ~~is made pursuant to subdivision (1)(a) of this section, or notify or~~
4 the appropriate court, as applicable, if the order is made pursuant
5 to subdivision (1)(b) of this section, of any evidence of tampering
6 with or circumvention of an ignition interlock device, or any
7 attempts to do so, when the facility becomes aware of such evidence.
8 Failure of the facility to provide notification as provided in this
9 subdivision is a Class V misdemeanor.

10 (ii) An ignition interlock service facility shall notify
11 the Department of Motor Vehicles, if the ignition interlock permit is
12 issued pursuant to sections 60-498.01 to 60-498.04, of any evidence
13 of tampering with or circumvention of an ignition interlock device,
14 or any attempts to do so, when the facility becomes aware of such
15 evidence. Failure of the facility to provide notification as provided
16 in this subdivision is a Class V misdemeanor.

17 (b) If a district probation office receives evidence of
18 tampering with or circumvention of an ignition interlock device, or
19 any attempts to do so, from an ignition interlock service facility,
20 the district probation office shall notify the appropriate court of
21 such violation. The court shall immediately schedule an evidentiary
22 hearing to be held within fourteen days after receiving such
23 evidence, either from the district probation office or an ignition
24 interlock service facility, and the court shall cause notice of the
25 hearing to be given to the person operating a motor vehicle pursuant

1 to an order under subsection (1) of this section. If the person who
2 is the subject of such evidence does not appear at the hearing and
3 show cause why the order made pursuant to subsection (1) of this
4 section should remain in effect, the court shall rescind the original
5 order. Nothing in this subsection shall apply to an order made by the
6 Board of Pardons pursuant to section 83-1,127.02.

7 ~~(11) Notwithstanding any other provision of law, the~~
8 ~~costs associated with the installation, maintenance, and removal of a~~
9 ~~court ordered ignition interlock device by the Office of Probation~~
10 ~~Administration shall not be construed so as to create an order of~~
11 ~~probation when an order for the installation of an ignition interlock~~
12 ~~device and ignition interlock permit was made pursuant to subdivision~~
13 ~~(1)(b) of this section as part of a conviction.~~

14 (10) Notwithstanding any other provision of law, the
15 issuance of an ignition interlock permit by the Department of Motor
16 Vehicles under section 60-498.01 or an order for the installation of
17 an ignition interlock device and ignition interlock permit made
18 pursuant to subsection (1) of this section as part of a conviction,
19 as well as the administration of such court order by the Office of
20 Probation Administration for the installation, maintenance, and
21 removal of such device, as applicable, shall not be construed to
22 create an order of probation when an order of probation has not been
23 issued.

24 Sec. 41. (1) Any person who tampers with or circumvents
25 an ignition interlock device installed under a court order or

1 Department of Motor Vehicles order while the order is in effect or
2 who operates a motor vehicle which is not equipped with an ignition
3 interlock device in violation of a court order or Department of Motor
4 Vehicles order shall be guilty of a Class IV felony.

5 (2) Any person who otherwise operates a motor vehicle
6 equipped with an ignition interlock device in violation of the
7 requirements of the court order or Department of Motor Vehicles order
8 under which the device was installed shall be guilty of a Class III
9 misdemeanor.

10 Sec. 42. This act becomes operative on January 1, 2012.

11 Sec. 43. Original sections 28-306, 28-394, 29-215,
12 29-1917, 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03, 37-1254.05,
13 37-1254.07, 37-1254.08, 37-1295, 53-180, 53-180.05, 60-497.01,
14 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115, 60-4,118.06,
15 60-4,129, 60-4,164, 60-601, 60-6,197, 60-6,197.02, 60-6,197.03,
16 60-6,197.05, 60-6,197.09, 60-6,198, and 60-6,211.05, Reissue Revised
17 Statutes of Nebraska, and sections 28-101, 29-2259.01, and 37-1201,
18 Revised Statutes Cumulative Supplement, 2010, are repealed.