

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 807**

Introduced by Harms, 48; Ashford, 20; Avery, 28; Conrad, 46; Dubas, 34; Garrett, 3; Haar, 21; Kolowski, 31; Krist, 10; McGill, 26; Mello, 5; Nelson, 6; Nordquist, 7; Scheer, 19; Seiler, 33; Sullivan, 41; Wightman, 36.

Read first time January 10, 2014

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend sections 60-4,120.01,  
2 60-4,123, 60-6,265, 60-6,270, and 79-609, Reissue Revised  
3 Statutes of Nebraska, and sections 60-4,124, 60-6,179.01,  
4 60-6,267, and 60-6,268, Revised Statutes Cumulative  
5 Supplement, 2012; to change provisional operator's permit  
6 restrictions from secondary offenses to primary offenses;  
7 to change certain uses of interactive wireless  
8 communication devices from secondary offenses to primary  
9 offenses as prescribed; to update references to certain  
10 federal provisions; to eliminate as a secondary action  
11 certain occupant protection system enforcement  
12 requirements; to repeal the original sections; and to  
13 outright repeal section 60-6,271, Reissue Revised  
14 Statutes of Nebraska.

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

1           Section 1. Section 60-4,120.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

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

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

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

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

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

24           (2) In order to obtain a provisional operator's permit,  
25 the applicant shall present (a)(i) proof of successful completion of

1 a department-approved driver safety course which includes behind-the-  
2 wheel driving specifically emphasizing (A) the effects of the  
3 consumption of alcohol on a person operating a motor vehicle, (B)  
4 occupant protection systems, (C) risk assessment, and (D) railroad  
5 crossing safety and (ii) proof of successful completion of a written  
6 examination and driving test administered by a driver safety course  
7 instructor or (b) a certificate in a form prescribed by the  
8 department, signed by a parent, guardian, or licensed driver at least  
9 twenty-one years of age, verifying that the applicant has completed  
10 fifty hours of lawful motor vehicle operation including at least ten  
11 hours of motor vehicle operation between sunset and sunrise, under  
12 conditions that reflect department-approved driver safety course  
13 curriculum, with a parent, guardian, or adult at least twenty-one  
14 years of age, who has a current Nebraska operator's license or who is  
15 licensed in another state. If the applicant presents such a  
16 certificate, the applicant shall be required to successfully complete  
17 a driving test administered by the department. The written  
18 examination shall be waived if the applicant has been issued a  
19 Nebraska LPD-learner's permit or has been issued a Nebraska LPE-  
20 learner's permit and such permit is valid or has been expired for no  
21 more than one year. However, the department shall not waive the  
22 written examination if the provisional operator's permit being  
23 applied for contains a class or endorsement which is different from  
24 the class or endorsement of the LPD-learner's or LPE-learner's  
25 permit. Upon presentation by the applicant of a form prescribed by

1 the department showing successful completion of the driver safety  
2 course, the written examination and driving test may be waived. Upon  
3 presentation of the certificate, the written examination but not the  
4 driving test may be waived. The examiner shall waive the written  
5 examination and the driving test if the applicant has been issued a  
6 school permit and such permit is valid or has expired no more than  
7 one year prior to application. The written examination shall not be  
8 waived if the provisional operator's permit being applied for  
9 contains a class or endorsement which is different from the class or  
10 endorsement of the school permit.

11 (3)(a) The holder of a provisional operator's permit  
12 shall only operate a motor vehicle on the highways of this state  
13 during the period beginning at 6 a.m. and ending at 12 midnight  
14 except when he or she is en route to or from his or her residence to  
15 his or her place of employment or a school activity. The holder of a  
16 provisional operator's permit may operate a motor vehicle on the  
17 highways of this state at any hour of the day or night if accompanied  
18 by a parent, guardian, or adult at least twenty-one years of age, who  
19 has a current Nebraska operator's license or who is licensed in  
20 another state.

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

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

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

8           (4) The county treasurer shall collect the fee and  
9 surcharge prescribed in section 60-4,115 for the issuance of each  
10 provisional operator's permit.

11           Sec. 2. Section 60-4,123, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           60-4,123 (1) Any person who is at least fifteen years of  
14 age may apply for an LPD-learner's permit from the department. In  
15 order to obtain an LPD-learner's permit, the applicant shall  
16 successfully complete a written examination. A person may take the  
17 written examination beginning sixty days prior to his or her  
18 fifteenth birthday but shall not be issued a permit until he or she  
19 is fifteen years of age. The written examination may be waived for  
20 any person who has been issued an LPE-learner's permit, LPD-learner's  
21 permit, or SCP-school permit that has been expired for no more than  
22 one year.

23           (2) Upon successful completion of the written examination  
24 and the payment of a fee and surcharge as prescribed in section  
25 60-4,115, the applicant shall be issued an LPD-learner's permit as

1 provided in section 60-4,113. The permit shall be valid for twelve  
2 months.

3 (3)(a) The holder of an LPD-learner's permit shall only  
4 operate a motor vehicle on the highways of this state if he or she is  
5 accompanied at all times by a licensed operator who is at least  
6 twenty-one years of age and who has been licensed by this state or  
7 another state and if he or she is actually occupying the seat beside  
8 the licensed operator or, in the case of a motorcycle or moped, if he  
9 or she is within visual contact of and under the supervision of, in  
10 the case of a motorcycle, a licensed motorcycle operator or, in the  
11 case of a moped, a licensed motor vehicle operator.

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

18 (4) The county treasurer shall collect the fee and  
19 surcharge prescribed in section 60-4,115 for the issuance of each  
20 LPD-learner's permit.

21 Sec. 3. Section 60-4,124, Revised Statutes Cumulative  
22 Supplement, 2012, is amended to read:

23 60-4,124 (1) A person who is younger than sixteen years  
24 and three months of age but is older than fourteen years and two  
25 months of age may be issued a school permit if such person lives a

1 distance of one and one-half miles or more from the school he or she  
2 attends and either resides outside a city of the metropolitan,  
3 primary, or first class or attends a school which is outside a city  
4 of the metropolitan, primary, or first class and if such person has  
5 held an LPE-learner's permit for two months. A school permit shall  
6 not be issued until such person has demonstrated that he or she is  
7 capable of successfully operating a motor vehicle, moped, or  
8 motorcycle and has in his or her possession an issuance certificate  
9 authorizing the county treasurer to issue a school permit. In order  
10 to obtain an issuance certificate, the applicant shall present (a)  
11 proof of successful completion of a department-approved driver safety  
12 course which includes behind-the-wheel driving specifically  
13 emphasizing (i) the effects of the consumption of alcohol on a person  
14 operating a motor vehicle, (ii) occupant protection systems, (iii)  
15 risk assessment, and (iv) railroad crossing safety and (b)(i) proof  
16 of successful completion of a written examination and driving test  
17 administered by a driver safety course instructor or (ii) a  
18 certificate in a form prescribed by the department, signed by a  
19 parent, guardian, or licensed driver at least twenty-one years of  
20 age, verifying that the applicant has completed fifty hours of lawful  
21 motor vehicle operation, under conditions that reflect department-  
22 approved driver safety course curriculum, with a parent, guardian, or  
23 adult at least twenty-one years of age, who has a current Nebraska  
24 operator's license or who is licensed in another state. The  
25 department may waive the written examination if the applicant has

1 been issued an LPE-learner's permit or LPD-learner's permit and if  
2 such permit is valid or has expired no more than one year prior to  
3 application. The written examination shall not be waived if the  
4 permit being applied for contains a class or endorsement which is  
5 different from the class or endorsement of the LPE-learner's permit.

6 (2) A person holding a school permit may operate a motor  
7 vehicle, moped, or motorcycle:

8 (a) To and from where he or she attends school and  
9 between schools of enrollment over the most direct and accessible  
10 route by the nearest highway from his or her place of residence to  
11 transport such person or any family member who resides with such  
12 person to attend duly scheduled courses of instruction and  
13 extracurricular or school-related activities at the school he or she  
14 attends; or

15 (b) Under the personal supervision of a licensed  
16 operator. Such licensed operator shall be at least twenty-one years  
17 of age and licensed by this state or another state and shall actually  
18 occupy the seat beside the permitholder or, in the case of a  
19 motorcycle or moped, if the permitholder is within visual contact of  
20 and under the supervision of, in the case of a motorcycle, a licensed  
21 motorcycle operator or, in the case of a moped, a licensed motor  
22 vehicle operator.

23 (3) The holder of a school permit shall not use any type  
24 of interactive wireless communication device while operating a motor  
25 vehicle on the highways of this state. ~~Enforcement of this subsection~~

1 ~~shall be accomplished only as a secondary action when the holder of~~  
2 ~~the school permit has been cited or charged with a violation of some~~  
3 ~~other law.~~

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

11 (5)(a) While holding the LPE-learner's permit, the person  
12 may operate a motor vehicle on the highways of this state if he or  
13 she has seated next to him or her a person who is a licensed operator  
14 or, in the case of a motorcycle or moped, if he or she is within  
15 visual contact of and is under the supervision of a person who, in  
16 the case of a motorcycle, is a licensed motorcycle operator or, in  
17 the case of a moped, is a licensed motor vehicle operator. Such  
18 licensed motor vehicle or motorcycle operator shall be at least  
19 twenty-one years of age and licensed by this state or another state.

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

1           (6) The county treasurer shall collect the fee and  
2 surcharge prescribed in section 60-4,115 from each successful  
3 applicant for a school or LPE-learner's permit. All school permits  
4 shall be subject to impoundment or revocation under the terms of  
5 section 60-496. Any person who violates the terms of a school permit  
6 shall be guilty of an infraction and shall not be eligible for  
7 another school, farm, LPD-learner's, or LPE-learner's permit until he  
8 or she has attained the age of sixteen years.

9           (7) Any person who holds a permit issued under this  
10 section and has violated subdivision (3)(b) or (c) of section 28-306,  
11 subdivision (3)(b) or (c) of section 28-394, or section 28-1254,  
12 60-6,196, 60-6,197, or 60-6,197.06 shall not be eligible for an  
13 ignition interlock permit.

14           Sec. 4. Section 60-6,179.01, Revised Statutes Cumulative  
15 Supplement, 2012, is amended to read:

16           60-6,179.01 (1) This section does not apply to an  
17 operator of a commercial motor vehicle if section 60-6,179.02  
18 applies.

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

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

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

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

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

10 ~~(5)~~(4) Any person who violates this section shall be  
11 guilty of a traffic infraction. Any person who is found guilty of a  
12 traffic infraction under this section shall be assessed points on his  
13 or her motor vehicle operator's license pursuant to section 60-4,182  
14 and shall be fined:

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

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

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

19 ~~(6)~~(5) For purposes of this section:

20 (a)(i) Handheld wireless communication device means any  
21 device that provides for written communication between two or more  
22 parties and is capable of receiving, displaying, or transmitting  
23 written communication.

24 (ii) Handheld wireless communication device includes, but  
25 is not limited to, a mobile or cellular telephone, a text messaging

1 device, a personal digital assistant, a pager, or a laptop computer.

2 (iii) Handheld wireless communication device does not  
3 include an electronic device that is part of the motor vehicle or  
4 permanently attached to the motor vehicle or a handsfree wireless  
5 communication device; and

6 (b) Written communication includes, but is not limited  
7 to, a text message, an instant message, electronic mail, and Internet  
8 web sites.

9 Sec. 5. Section 60-6,265, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 60-6,265 For purposes of sections 60-6,266 to 60-6,273,  
12 occupant protection system means a system utilizing a lap belt, a  
13 shoulder belt, or any combination of belts installed in a motor  
14 vehicle which (1) restrains drivers and passengers and (2) conforms  
15 to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.207,  
16 571.208, 571.209, and 571.210, as such standards existed on January  
17 1, ~~2009~~, 2014, or to the federal motor vehicle safety standards for  
18 passenger restraint systems applicable for the motor vehicle's model  
19 year.

20 Sec. 6. Section 60-6,267, Revised Statutes Cumulative  
21 Supplement, 2012, is amended to read:

22 60-6,267 (1) Any person in Nebraska who drives any motor  
23 vehicle which has or is required to have an occupant protection  
24 system shall ensure that all children up to six years of age being  
25 transported by such vehicle use a child passenger restraint system of

1 a type which meets Federal Motor Vehicle Safety Standard 213 as  
2 developed by the National Highway Traffic Safety Administration, as  
3 such standard existed on January 1, ~~2009~~, 2014, and which is  
4 correctly installed in such vehicle.

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

10 (3) Subsections (1) and (2) of this section apply to  
11 every motor vehicle which is equipped with an occupant protection  
12 system or is required to be equipped with restraint systems pursuant  
13 to Federal Motor Vehicle Safety Standard 208, as such standard  
14 existed on January 1, ~~2009~~, 2014, except taxicabs, mopeds,  
15 motorcycles, and any motor vehicle designated by the manufacturer as  
16 a 1963 year model or earlier which is not equipped with an occupant  
17 protection system.

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

1 waiver.

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

6 (6) A driver of a motor vehicle shall not be subject to  
7 the requirements of subsection (1) or (2) of this section if the  
8 motor vehicle is being operated in a parade or exhibition and the  
9 parade or exhibition is being conducted in accordance with applicable  
10 state law and local ordinances and resolutions.

11 (7) The Department of Roads shall develop and implement  
12 an ongoing statewide public information and education program  
13 regarding the use of child passenger restraint systems and occupant  
14 protection systems and the availability of distribution and discount  
15 programs for child passenger restraint systems.

16 (8) All persons being transported by a motor vehicle  
17 operated by a holder of a provisional operator's permit or a school  
18 permit shall use such motor vehicle's occupant protection system.

19 Sec. 7. Section 60-6,268, Revised Statutes Cumulative  
20 Supplement, 2012, is amended to read:

21 60-6,268 ~~(1)~~—A person violating any provision of  
22 subsection (1) or (2) of section 60-6,267 shall be guilty of an  
23 infraction as defined in section 29-431 and shall be fined twenty-  
24 five dollars for each violation. The failure to provide a child  
25 restraint system for more than one child in the same vehicle at the

1 same time, as required in such subsection, shall not be treated as a  
2 separate offense.

3 ~~(2) Enforcement of subsection (2) or (8) of section~~  
4 ~~60-6,267 shall be accomplished only as a secondary action when an~~  
5 ~~operator of a motor vehicle has been cited or charged with a~~  
6 ~~violation or some other offense unless the violation involves a~~  
7 ~~person under the age of eighteen years riding in or on any portion of~~  
8 ~~the vehicle not designed or intended for the use of passengers when~~  
9 ~~the vehicle is in motion.~~

10 Sec. 8. Section 60-6,270, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 60-6,270 (1) Except as provided in subsection (2) of this  
13 section, no driver shall operate a motor vehicle upon a highway or  
14 street in this state unless the driver and each ~~front seat~~ occupant  
15 in the motor vehicle are wearing occupant protection systems and all  
16 occupant protection systems worn are properly adjusted and fastened.

17 (2) The following persons shall not be required to wear  
18 an occupant protection system:

19 (a) A person who possesses written verification from a  
20 physician that the person is unable to wear an occupant protection  
21 system for medical reasons;

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

25 (c) A member of an emergency medical service while

1 involved in patient care.

2 (3) For purposes of this section, motor vehicle ~~shall~~  
3 ~~mean~~ means a vehicle required by section 60-6,266 to be equipped with  
4 an occupant protection system.

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

7 79-609 (1) The school board or board of education, after  
8 consultation with a member of the Nebraska State Patrol, shall  
9 determine the number of passengers that may be safely transported in  
10 each bus.

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

19 (3) The operator of a school bus equipped with an  
20 occupant protection system as defined in section 60-6,265 shall wear  
21 such system whenever the vehicle is in motion.

22 (4) This subsection does not apply to an operator of a  
23 school bus if section 60-6,179.02 applies. The operator of a school  
24 bus, including any school bus which transports pupils by direct  
25 contract with the pupils or their parents and not owned by or under

1 contract with a school district or nonpublic school, shall not,  
2 whenever the vehicle is in motion, use any type of interactive  
3 wireless communication device as defined in section 60-470.02. This  
4 subsection does not apply to any dispatch communication device.

5           Sec. 10. Original sections 60-4,120.01, 60-4,123,  
6 60-6,265, 60-6,270, and 79-609, Reissue Revised Statutes of Nebraska,  
7 and sections 60-4,124, 60-6,179.01, 60-6,267, and 60-6,268, Revised  
8 Statutes Cumulative Supplement, 2012, are repealed.

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