

## LEGISLATIVE BILL 420

Approved by the Governor June 5, 1991

Introduced by Kristensen, 37

AN ACT relating to motor vehicle operators' licenses; to amend sections 39-669.06, 39-669.22, 39-669.23, 39-669.24, 39-6,110, 60-516, and 60-517, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.27, 60-487, 60-498 to 60-4,102, and 60-4,125, Revised Statutes Supplement, 1990; to eliminate requirements for certified copies of judgments; to change provisions relating to transmission of judgment records to the Department of Motor Vehicles; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. That section 39-669.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.06. Upon a third or subsequent conviction of any person for either reckless driving or willful reckless driving, he or she shall be imprisoned in the Department of Correctional Services adult correctional facility for not less than one year nor more than three years. The ~~and the~~ court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for a period of one year from the date of his or her final discharge from the Department of Correctional Services adult correctional facility; and shall order that the operator's license of such person be revoked for a like period. The court shall certify transmit a copy of the judgment of conviction to the Department of Motor Vehicles; for revocation of the operator's license of the person so convicted.

Sec. 2. That section 39-669.22, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.22. Every court in this state shall make complete records; including the judgment of conviction and orders of probation; An abstract of the court record of every case in which a person is charged with violation of convicted of violating any provision

of Chapter 39, articles 6 and 7, Chapter 60, articles 4 and 5, or any amendments thereto, or any traffic regulations in city or village ordinances- in the event that such person is convicted or placed on probation or that his or her bail is forfeited, a certified abstract of such judgment as provided in section 39-669-24 shall be sent transmitted within thirty days by the court to the Director of Motor Vehicles. Any abstract not received by the Director of Motor Vehicles within director more than thirty days of after the date of conviction shall be reported by the director to the State Court Administrator. The Director of Motor Vehicles director shall not assess such person with any points under section 39-669.26 for such violation when the person is placed on probation therefor, except that any person violating section 28-306, 39-669.01, 39-669.03, 39-669.07, 39-669.08, 39-6,104.01, or 39-6,104.02 who is placed on probation shall be assessed the same points as if such person were not placed on probation, until the director is advised by the court that such person previously placed on probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of such revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. When a person fails to successfully complete probation, it shall be the duty of the court to notify the director immediately.

Sec. 3. That section 39-669.23, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.23. An abstract of the judgment of conviction or order of probation shall be forwarded on forms provided for in section 39-669-24 transmitted to the Director of Motor Vehicles and the National Crime Information Center upon conviction of any person of or placing him such person on probation for manslaughter or other felony in the commission of which a vehicle was used. The director and the National Crime Information Center shall keep such conviction reports in their offices, and they the reports shall be open to the inspection of any person during reasonable business hours.

Sec. 4. That section 39-669.24, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-669.24. To enable the Director of Motor Vehicles punctually and economically to perform his or

her ministerial duties in revoking or suspending operators' licenses and to insure uniformity in the keeping of the records of operators' licenses suspended or revoked by courts of the state, such director shall prepare and furnish to all courts of the state a standard form of abstract for conviction report. In lieu of furnishing the form, the director may authorize the use of uniform forms provided by the courts or law enforcement agencies. This shall include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, and the amount of the fine or forfeiture, as the case may be. Every such abstract shall be certified by the judge or clerk of any court of record as a true abstract of the record of the court. the director shall authorize electronic transmission of abstract-of-conviction reports. The director in consultation with the State Court Administrator shall prescribe the standard format of abstract-of-conviction reports. The report shall include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, and the amount of any fine or forfeiture.

In the administration of sections 39-669.22 to 39-669.24 or of any section of the Motor Vehicle Operator's License Act, the powers and duties conferred upon the Director of Motor Vehicles, his director or his or her subordinates, or his successors, with respect to the revocation or suspension of any operator's license or driving privileges are ministerial in character. The Director of Motor Vehicles shall have authority to director may revoke or suspend operators' licenses only when positively directed to do so by the terms of the certified abstract of the judgment of conviction forwarded to him transmitted by the trial court, except as otherwise provided in section 39-669.27 and Chapter 60, articles 4 and 5.

Sec. 5. That section 39-669.27, Revised Statutes Supplement, 1990, be amended to read as follows:

39-669.27. Whenever it comes to the attention of the director that any person has, as disclosed by the records of the director, accumulated a total of twelve or more points within any period of two years, as set out in section 39-669.26, the director shall (1) summarily revoke (a) the license and privilege of such person to operate a motor vehicle in this state or (b) the privilege, if such operator is a nonresident, of operating a motor vehicle within this state and (2)

require such person to attend and successfully complete a driver's education and training course consisting of at least eight hours of instruction approved by the department. Such instruction shall be successfully completed before the license and privilege or privilege to operate a motor vehicle may be reinstated. Each person who attends such instruction shall pay the cost of such course. Such revocation shall be for a period of six months from the date of the signing of the order of revocation or six months from the date of the release of such person from the jail or the Department of Correctional Services adult correctional facility, whichever is the later, unless a longer period of revocation was directed by the terms of the certified abstract of the judgment of conviction forwarded transmitted to the director by the trial court. Any motor vehicle, except a commercial motor vehicle as defined in section 60-465, may be operated under an employment driving permit as provided by section 60-4,129.

Sec. 6. That section 39-6,110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,110. When any person fails within ten days to satisfy any judgment imposed for any traffic infraction, it shall be the duty of the clerk of the court, in which such judgment is rendered within this state, to forward transmit to the department, immediately after the expiration of such ten-day period, a certified copy of such judgment.

Sec. 7. That section 60-487, Revised Statutes Supplement, 1990, be amended to read as follows:

60-487. If any magistrate or judge finds in his or her judgment of conviction that the application pursuant to which the director has issued an operator's license under the Motor Vehicle Operator's License Act contains any false or fraudulent statement deliberately and knowingly made to any officer as to any matter material to the issuance of such license or does not contain required or correct information or that the person to whom the license was issued was not eligible to receive such license, then the license shall be absolutely void from the date of issue and such motor vehicle operator shall be deemed to be not licensed to operate a motor vehicle. Such license shall be at once canceled of record in his or her office by the director upon receipt of a certified copy of such judgment of conviction. The director may, upon his or her own motion, summarily revoke any license for any of the

reasons set forth in this section if such reason or reasons affirmatively appear on his or her official records.

Sec. 8. That section 60-498, Revised Statutes Supplement, 1990, be amended to read as follows:

60-498. The director shall immediately revoke the operator's license of any person upon receiving a certified copy of judgment of such person's conviction of any of the following offenses, when such conviction becomes final: (1) Manslaughter resulting from the operation of a motor vehicle; (2) driving a motor vehicle while under the influence of alcoholic liquor or any drug as provided in city or village ordinances or in section 39-669.07. The period of revocation shall, in each case except for those offenses specified in section 60-4,168, correspond with the period that is determined by the court; (3) any felony in the commission of which a motor vehicle is used; (4) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another; (5) perjury or making of a false affidavit or statement under oath to the director, examining officer, or other officer under the Motor Vehicle Operator's License Act or under any law relating to the ownership or operation of motor vehicles; (6) conviction or forfeiture of bail, not vacated, upon three charges of reckless driving committed within a period of twelve months; or (7) willful reckless driving as provided in city or village ordinances or as described in section 39-669.03.

Sec. 9. That section 60-499, Revised Statutes Supplement, 1990, be amended to read as follows:

60-499. The director may revoke the operator's license of a person upon receipt of a certified copy of a judgment of conviction from the trial magistrate or judge which states that the licensee: (1) Has committed an offense for which mandatory revocation is required upon conviction as set forth in section 60-498; (2) has been involved as a driver in an accident resulting in the death or personal injury of another or in serious property damage; (3) is an a habitually reckless or negligent driver of a motor vehicle; (4) is an a habitual violator of the traffic laws; (5) is incompetent to drive a motor vehicle; (6) has permitted an unlawful or fraudulent use of such license; (7) was not entitled to the issuance of the license; (8) failed to give the required or correct information in his or her application; (9) committed fraud in making such application; or (10) has, as a

nonresident, suffered revocation or suspension of his or her operator's license or of his or her driving privilege by the trial court and the director and has, during the period of revocation or suspension, violated the terms of that revocation or suspension by exercising the driving privilege under a new operator's license fraudulently obtained or otherwise.

Sec. 10. That section 60-4,100, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,100. The director may suspend or revoke the operator's license of any resident of this state: (1) Upon receiving a ~~certified~~ copy of the judgment of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of such operator by any trial judge or magistrate in this state; (2) who has violated a promise to comply with the terms of a traffic citation issued by a law enforcement officer for a moving violation in any jurisdiction outside this state pursuant to the Nonresident Violator Compact until satisfactory evidence of compliance with the terms of the citation has been furnished to the director; or (3) who has violated a promise to comply with the terms of a traffic citation issued on or after July 1, 1986, by a law enforcement officer for a moving violation in any jurisdiction inside this state until satisfactory evidence of compliance with the terms of the citation has been furnished to the director. The court having jurisdiction over the offense for which the citation has been issued shall notify the director of a violation of a promise to comply with the terms of the citation only after twenty working days have elapsed from the date of the failure to comply.

Upon notice to the director that a resident has violated a promise to comply with the terms of a traffic citation as provided in this section, the director shall not suspend or revoke such resident's license until he or she has sent written notice to such resident by registered or certified mail to the resident's last-known address. Such notice shall state that such resident has twenty working days from the date of the notice to show the director that the resident has complied with the terms of such traffic citation. No suspension or revocation shall be entered by the director if the resident complies with the terms of a citation during such twenty working days.

Upon the expiration of any license revocation

ordered pursuant to this section, a resident may have his or her license reinstated upon payment of a fee of fifty dollars. The fees paid pursuant to this section shall be deposited in the Department of Motor Vehicles Cash Fund.

Sec. 11. That section 60-4,101, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,101. (1) The director shall immediately revoke, without receipt of a ~~certified~~ copy of a judgment of conviction from a judge, the operator's license issued to any person committed to or incarcerated in any state institution except any offender sentenced to the custody of the Department of Correctional Services. Any person committed to or incarcerated in any state institution for the mentally ill, under the terms and provisions of section 83-324, shall not suffer revocation of his or her license as provided in this section unless the superintendent of such institution affirmatively certifies that such person is not competent to operate a motor vehicle.

(2) No record shall be kept of such revocation after a person has been released from incarceration and has obtained reinstatement of his or her license.

(3) The Director of Correctional Services shall confiscate the operator's license of any person who is placed under the jurisdiction of the Department of Correctional Services. The director shall return the license when such person is released from the jurisdiction of the department. No records of the confiscation or return shall be made by or distributed to any representative of state or local government or be released to any person or corporation for any purpose.

(4) A person committed or incarcerated as set forth in subsection (1) of this section shall stand examination the same as any new applicant if he or she desires to have his or her operator's license reinstated after he or she has been granted his or her release from such institution by parole or otherwise. Any person committed to or incarcerated in any state institution for the mentally ill shall furnish a certificate of competence to operate a motor vehicle, to be issued by and at the discretion of the superintendent or titular head of such institution, in addition to the examination provided in this section.

Sec. 12. That section 60-4,102, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,102. The privilege of driving a motor

vehicle on the highways of this state given to a nonresident shall be subject to suspension or revocation by the trial magistrate or judge in like manner and for like cause as an operator's license may be suspended or revoked. The director may, upon receiving a certified copy of a judgment of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward transmit a certified copy of such judgment of conviction to the motor vehicle administrator in the state wherein the person so convicted is a resident.

Sec. 13. That section 60-4,125, Revised Statutes Supplement, 1990, be amended to read as follows:

60-4,125. Any court finding that a minor has violated an LPD-learner's permit issued pursuant to section 60-4,123 or an LPE-learner's permit issued pursuant to section 60-4,124 by operating a motor vehicle when not accompanied by a licensed operator who is at least nineteen years of age and actually occupying the seat beside the driver shall, in addition to any other penalty or disposition, revoke such learner's permit and order that such minor shall not be eligible for another operator's license or school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

A certified copy of the court's findings and order shall be sent transmitted to the director who shall cancel the LPD-learner's or LPE-learner's permit of such minor in accordance with the order of the court and not again issue another operator's license or school, farm, LPD-learner's, or LPE-learner's permit to such minor until such minor has attained the age of sixteen years.

Sec. 14. That section 60-516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-516. Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward transmit to the department, immediately after the expiration of said sixty days, a certified copy of such judgment. If the defendant named in any certified copy of a judgment reported transmitted to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of



which the defendant is a resident.

Sec. 15. That section 60-517, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-517. Upon the receipt of a ~~certified~~ copy of a judgment, the department shall forthwith suspend, except as provided in sections 60-521 to 60-523, the license and registration and the nonresident's operating privilege of any person against whom such judgment was rendered.

Sec. 16. This act shall become operative on January 1, 1992.

Sec. 17. That original sections 39-669.06, 39-669.22, 39-669.23, 39-669.24, 39-6,110, 60-516, and 60-517, Reissue Revised Statutes of Nebraska, 1943, and sections 39-669.27, 60-487, 60-498 to 60-4,102, and 60-4,125, Revised Statutes Supplement, 1990, are repealed.