

AMENDMENTS TO LB 667

Introduced by Judiciary

1 1. Strike the original sections and insert the following
2 new sections:

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

5 28-101 Sections 28-101 to 28-1356 and section 2 of this
6 act shall be known and may be cited as the Nebraska Criminal Code.

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

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

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

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

21 (d) If the person operating or in the actual physical
22 control of the motor vehicle refuses to submit to a chemical test
23 or tests when directed to do so by a peace officer pursuant to

1 section 60-6,197.

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

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

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

10 28-306 (1) A person who causes the death of another
11 unintentionally while engaged in the operation of a motor vehicle
12 in violation of the law of the State of Nebraska or in violation of
13 any city or village ordinance commits motor vehicle homicide.

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

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

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

27 (c) If the proximate cause of the death of another is

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

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

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

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

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

1 (2) Except as provided in subsection (3) of this section,
2 motor vehicle homicide of an unborn child is a Class I misdemeanor.

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

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

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

1 operator's license of such person be revoked for the same period.
2 The revocation shall not run concurrently with any jail term
3 imposed.

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

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

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

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

23 (a) Any such law enforcement officer, if in a fresh
24 attempt to apprehend a person suspected of committing a felony, may
25 follow such person into any other jurisdiction in this state and
26 there arrest and detain such person and return such person to the
27 law 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
10 a call in which a local, state, or federal law enforcement officer
11 is in need of assistance. A law enforcement officer in need of
12 assistance shall mean (i) a law enforcement officer whose life is
13 in 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)
17 may 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
22 an 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
26 subdivision shall provide liability insurance coverage for its own
27 law enforcement personnel as provided in section 13-1802.

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

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

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

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

24 (4) For purposes of this section:

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

1 (b) Primary jurisdiction means the geographic area within
2 the territorial limits of the state or political subdivision which
3 employs the law enforcement officer.

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

6 29-1917 (1) Except as provided in section 29-1926, at any
7 time after the filing of an indictment or information in a felony
8 ~~or Class W misdemeanor~~ prosecution, the prosecuting attorney or the
9 defendant may request the court to allow the taking of a deposition
10 of any person other than the defendant who may be a witness in
11 the trial of the offense. The court may order the taking of the
12 deposition when it finds the testimony of the witness:

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

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

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

20 (3) The proceedings in taking the deposition of a witness
21 pursuant to this section and returning it to the court shall be
22 governed in all respects as the taking of depositions in civil
23 cases.

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

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

3 29-2259.01 (1) There is hereby created the Probation
4 Cash Fund. All money collected pursuant to subdivisions (2)(m)
5 and (2)(o) of section 29-2262 and subdivisions (4)(a) and (4)(b)
6 of section 60-4,115 shall be remitted to the State Treasurer for
7 credit to the fund.

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

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

17 ~~(b) Expenditures from the money in the fund collected~~
18 ~~pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115~~
19 ~~shall also be used to provide for the cost of installing, removing,~~
20 ~~and maintaining an ignition interlock device in accordance with~~
21 ~~subsection (9) of section 60-6,211.05. The office shall not be~~
22 ~~required to pay costs authorized under this subdivision that exceed~~
23 ~~the amount of funds available for this purpose.~~

24 ~~(4)~~ (3) Any money in the fund available for investment
25 shall be invested by the state investment officer pursuant to
26 the Nebraska Capital Expansion Act and the Nebraska State Funds
27 Investment Act.

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

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

6 37-1201 Sections 37-1201 to 37-12,110 and sections 16,
7 17, 18, and 19 of this act shall be known and may be cited as the
8 State Boat Act. It is the policy of this state to promote safety
9 for persons and property in and connected with the use, operation,
10 and equipment of vessels and to promote uniformity of laws relating
11 thereto.

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

14 37-1238.01 No person other than a rescue squad member
15 actually en route to, at, or returning from any emergency requiring
16 the services of such member or any law enforcement peace officer
17 in the performance of his or her official duties shall operate a
18 vessel equipped with a rotating or flashing red or blue light or
19 lights upon the waters of this state.

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

22 37-1254.01 (1) No person shall be in the actual physical
23 control of any motorboat or personal watercraft under propulsion
24 upon the waters of this state:

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

27 (b) When such person has a concentration of

1 eight-hundredths of one gram or more by weight of alcohol
2 per one hundred milliliters of his or her blood; or

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

6 ~~(2) Any person who is in the actual physical control of~~
7 ~~any motorboat under propulsion upon the waters of this state while~~
8 ~~in a condition described in subsection (1) of this section shall be~~
9 ~~guilty of a Class II misdemeanor. Upon conviction the court shall,~~
10 ~~as part of the judgment of conviction, order such person not to be~~
11 ~~in the physical control of a motorboat under propulsion upon the~~
12 ~~waters of this state for any purpose for a period of six months~~
13 ~~from the date of such conviction, except that if the court places~~
14 ~~such person on probation or suspends the sentence for any reason,~~
15 ~~the court shall, as one of the conditions of probation or sentence~~
16 ~~suspension, order such person not to be in the physical control of~~
17 ~~any motorboat under propulsion upon the waters of this state for~~
18 ~~any purpose for a period of sixty days from the date of the order.~~

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

25 (3) Any person who is in the actual physical control
26 of any motorboat or personal watercraft under propulsion upon the
27 waters of this state while in a condition described in subsection

1 (1) of this section shall be guilty of a crime and upon conviction
2 punished as provided in section 19 of this act.

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

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

10 37-1254.02 (1) Any person who has in his or her
11 actual physical control a motorboat or personal watercraft under
12 propulsion upon the waters of this state shall be deemed to have
13 given his or her consent to submit to a chemical test or tests
14 of his or her blood, ~~or~~ breath, or urine for the purpose of
15 determining the ~~amount of alcohol content~~ concentration of alcohol
16 or the presence of drugs in such blood, ~~or~~ breath, or urine.

17 (2) Any law enforcement peace officer who has been duly
18 authorized to make arrests for violations of laws of this state or
19 ordinances of any city or village may require any person arrested
20 for any offense arising out of acts alleged to have been committed
21 while the person was in the actual physical control of a motorboat
22 or personal watercraft under propulsion upon the waters of this
23 state under the influence of alcohol or drugs to submit to a
24 chemical test or tests of his or her blood, ~~or~~ breath, or urine for
25 the purpose of determining the ~~alcohol content of~~ concentration of
26 alcohol or the presence of drugs in such blood, ~~or~~ breath, or urine
27 when the officer has reasonable grounds to believe that the person

1 was in the actual physical control of a motorboat or personal
2 watercraft under propulsion upon the waters of this state while
3 under the influence of alcohol or drugs in violation of section
4 37-1254.01. It shall be unlawful for a person to refuse to provide
5 a sample of his or her blood, breath, or urine after being directed
6 by a peace officer to submit to a chemical test or tests of his or
7 her blood or breath pursuant to this section.

8 (3) Any law enforcement officer who has been duly
9 authorized to make arrests for violations of laws of this state or
10 ordinances of any city or village may require any person who has
11 in his or her actual physical control a motorboat under propulsion
12 upon the waters of this state to submit to a preliminary test of
13 his or her breath for alcohol content if the officer has reasonable
14 grounds to believe that such person has alcohol in his or her
15 body or has committed any violation of this section and section
16 37-1254.01. Any person who refuses to submit to such preliminary
17 breath test or whose preliminary breath test results indicate an
18 alcohol content of eight-hundredths of one gram or more by weight
19 of alcohol per two hundred ten liters of his or her breath shall
20 be placed under arrest. Any person who refuses to submit to such
21 preliminary breath test shall be guilty of a Class III misdemeanor.

22 (4) (3) Any person arrested pursuant to as described in
23 subsection (2) of this section may, upon the direction of a law
24 enforcement peace officer, be required to submit to a chemical
25 test or tests of his or her blood, or breath, or urine for a
26 determination of the concentration of alcohol or the presence of
27 drugs. alcohol content. Any person who refuses to submit to a

1 ~~chemical blood or breath test required pursuant to this section~~
2 ~~shall be guilty of a Class II misdemeanor, and the court shall, as~~
3 ~~part of the judgment of conviction, order such person not to be~~
4 ~~in the actual physical control of any motorboat under propulsion~~
5 ~~upon the waters of this state for any purpose for a period of~~
6 ~~six months from the date of such conviction. If the court places~~
7 ~~such person on probation or suspends the sentence for any reason,~~
8 ~~the court shall, as one of the conditions of probation or sentence~~
9 ~~suspension, order such person not to be in the actual physical~~
10 ~~control of any motorboat under propulsion upon the waters of this~~
11 ~~state for any purpose for a period of sixty days from the date of~~
12 ~~the order.~~

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

21 (5) Any person who is required to submit to a preliminary
22 ~~breath test or to a chemical blood, or breath, or urine test or~~
23 ~~tests pursuant to this section shall be advised of the consequences~~
24 ~~of refusing to submit to such test, that if he or she refuses~~
25 ~~to submit to such test or tests, he or she could be charged with~~
26 ~~a separate crime. Failure to provide such advisement shall not~~
27 ~~affect the admissibility of the chemical test result in any legal~~

1 proceedings. However, failure to provide such advisement shall
2 negate the state's ability to bring any criminal charges against a
3 refusing party pursuant to this section.

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

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

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

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

27 Sec. 13. Section 37-1254.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-1254.05 (1) Except as provided in section 37-1254.03,
3 any test or tests made pursuant to section 37-1254.02, if made
4 in conformance with the requirements of this section, shall be
5 competent evidence in any prosecution under a state law or city
6 or village ordinance regarding the actual physical control of any
7 motorboat or personal watercraft under propulsion upon the waters
8 of this state while under the influence of alcohol or drugs or
9 regarding the actual physical control of any motorboat or personal
10 watercraft under propulsion upon the waters of this state when the
11 concentration of alcohol in the blood or breath is in excess of
12 allowable levels in violation of section 37-1254.01 or a city or
13 village ordinance.

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

22 (3) The permit fee may be established by rules and
23 regulations adopted and promulgated by the department, which fee
24 shall not exceed the actual cost of processing the initial permit.
25 Such fee shall be charged annually to each permitholder. The fees
26 shall be used to defray the cost of processing and issuing the
27 permits and other expenses incurred by the department in carrying

1 out this section. The fee shall be deposited in the state treasury
2 and credited to the Health and Human Services Cash Fund as a
3 laboratory service fee.

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

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

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

27 Sec. 15. Section 37-1254.08, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

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

1 placed under arrest. Any person who refuses to submit to such
2 preliminary breath test shall be guilty of a Class III misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (3) For each conviction for a violation of section
17 37-1254.01 or 37-1254.02, the court shall, as part of the judgment
18 of conviction, make a finding on the record whether the convicted
19 person has a usable prior conviction. The convicted person shall
20 be given the opportunity to review the record of his or her prior
21 convictions, bring mitigating facts to the attention of the court
22 prior to sentencing, and make objections on the record regarding
23 the validity of such prior convictions.

24 (4) A person arrested for a violation of section
25 37-1254.01 or 37-1254.02 before the operative date of this act
26 but sentenced for such violation on or after the operative date of
27 this act shall be sentenced according to the provisions of section

1 37-1254.01 or 37-1254.02 in effect on the date of arrest.

2 Sec. 19. Any person convicted of a violation of section
3 37-1254.01 or 37-1254.02 shall be punished as follows:

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

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

20 (2) If such person has had one or more prior convictions,
21 such person shall be guilty of a Class I misdemeanor. Upon
22 conviction the court shall, as part of the judgment of conviction,
23 order such person not to be in the actual physical control of any
24 motorboat or personal watercraft under propulsion upon the waters
25 of this state for any purpose for a period of two years from the
26 date of such conviction. Such order shall be administered upon
27 sentencing or upon final judgment of any appeal or review. The

1 two-year court-ordered prohibition shall apply even if probation is
2 granted or the sentence suspended.

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

5 37-1295 A certificate of title which is issued on or
6 after January 1, 2005, shall disclose in writing, from any
7 records readily accessible to the Department of Motor Vehicles
8 or county officials or a ~~law enforcement~~ peace officer, anything
9 which indicates that the motorboat was previously issued a title
10 in another jurisdiction that bore any word or symbol signifying
11 that the motorboat was damaged, including, but not limited to,
12 older model salvage, unrebildable, parts only, scrap, junk,
13 nonrepairable, reconstructed, rebuilt, flood damaged, damaged, or
14 any other indication, symbol, or word of like kind, and the name of
15 the jurisdiction issuing the previous title.

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

18 53-180 No person shall sell, furnish, give away, ~~dispose~~
19 ~~of~~, exchange, or deliver, or permit the sale, gift, or procuring
20 of any alcoholic liquors, to or for any minor or to any person who
21 is mentally incompetent.

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

24 53-180.05 (1) ~~Any~~ Except as provided in subsection (2)
25 of this section, any person ~~violating~~ who violates section 53-180
26 shall be guilty of a Class I misdemeanor.

27 (2) Any person who knowingly and intentionally violates

1 section 53-180 shall be guilty of a Class IIIA felony and serve a
2 mandatory minimum of at least thirty days' imprisonment as part of
3 any sentence he or she receives if serious bodily injury or death
4 to any person resulted and was proximately caused by a minor's
5 (a) consumption of the alcoholic liquor provided or (b) impaired
6 condition which, in whole or in part, can be attributed to the
7 alcoholic liquor provided.

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

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

14 (5) Any person eighteen years of age or younger violating
15 section 53-180.02 is guilty of a misdemeanor as provided in section
16 53-181 and shall be punished as provided in such section.

17 ~~(2)~~ (6) Any person who knowingly manufactures, creates,
18 or alters any form of identification for the purpose of sale or
19 delivery of such form of identification to a person under the age
20 of twenty-one years shall be guilty of a Class I misdemeanor. For
21 purposes of this subsection, form of identification means any card,
22 paper, or legal document that may be used to establish the age of
23 the person named thereon for the purpose of purchasing alcoholic
24 liquor.

25 ~~(3)~~ (7) When a minor is arrested for a violation of
26 sections 53-180 to 53-180.02 or subsection ~~(2)~~ (6) of this section,
27 the law enforcement agency employing the arresting peace officer

1 shall make a reasonable attempt to notify such minor's parent or
2 guardian of the arrest.

3 Sec. 23. Section 60-498.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

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

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

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

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

24 (4) On behalf of the director, the arresting peace
25 officer submitting a sworn report under subsection (2) or (3) of
26 this section shall serve notice of the revocation on the arrested
27 person, and the revocation shall be effective ~~thirty~~ fifteen days

1 after the date of arrest. The notice of revocation shall contain
2 a statement explaining the operation of the administrative license
3 revocation procedure. The peace officer shall also provide to the
4 arrested person an addressed envelope and a petition form which the
5 arrested person may use to request a hearing before the director
6 to contest the revocation. The petition form shall clearly state on
7 its face that the petition must be completed and delivered to the
8 Department of Motor Vehicles information form prepared and approved
9 by the director describing how to request an administrative license
10 revocation hearing or apply for an ignition interlock permit from
11 the department. A petition for an administrative license revocation
12 hearing must be completed and delivered to the department or
13 postmarked within ten days after receipt the person's arrest or
14 the person's right to a an administrative license revocation
15 hearing to contest the revocation will be foreclosed. The director
16 shall prepare and approve the information form for the petition,
17 the addressed envelope, application for an ignition interlock
18 permit and the notice of revocation and shall provide them to law
19 enforcement agencies.

20 If the person has an operator's license, the arresting
21 peace officer shall take possession of the license and issue a
22 temporary operator's license valid for ~~thirty~~ fifteen days. The
23 arresting peace officer shall forward the operator's license to the
24 department along with the sworn report made under subsection (2) or
25 (3) of this section.

26 (5) (a) If the results of a chemical test indicate the
27 presence of alcohol in a concentration specified in section

1 60-6,196, the results are not available to the arresting peace
2 officer while the arrested person is in custody, and the notice
3 of revocation has not been served as required by subsection (4)
4 of this section, the peace officer shall forward to the director
5 a sworn report containing the information prescribed by subsection
6 (3) of this section within ten days after receipt of the results of
7 the chemical test. If the sworn report is not received within ten
8 days, the revocation shall not take effect. The director may accept
9 a sworn report submitted electronically.

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

1 revocation hearing to contest the revocation will be foreclosed.
2 The director shall prepare and approve the form for the ~~petition~~
3 ~~the addressed envelope~~, ignition interlock permit application and
4 the notice of revocation. The revocation shall be effective ~~thirty~~
5 fifteen days after the date of mailing.

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

16 (6) (a) An arrested person's operator's license
17 confiscated pursuant to subsection (4) of this section shall be
18 automatically revoked upon the expiration of ~~thirty~~ fifteen days
19 after the date of arrest. An arrested person's operator's license
20 confiscated pursuant to subsection (5) of this section shall be
21 automatically revoked upon the expiration of ~~thirty~~ fifteen days
22 after the date of mailing of the notice of revocation by the
23 director. The arrested person shall postmark or return to the
24 director a petition within ten days after the receipt of the notice
25 of revocation if the arrested person desires a an administrative
26 license revocation hearing. The petition shall be in writing
27 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~~
10 mail postmarked at least seven days prior to the hearing date. The
11 filing of the petition shall not prevent the automatic revocation
12 of the petitioner's operator's license at the expiration of the
13 ~~thirty-day~~ fifteen-day period. A continuance of the hearing to
14 a date beyond the expiration of the temporary operator's license
15 shall stay the expiration of the temporary license when the request
16 for continuance 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
23 motor 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
26 complete a chemical test after being requested to do so by the
27 peace officer; or

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

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

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

10 (7) (a) Any arrested person who submits an application
11 for an ignition interlock permit in lieu of a petition for an
12 administrative license revocation hearing regarding the revocation
13 of his or her operator's license pursuant to this section shall
14 complete the application for an ignition interlock permit in which
15 such person acknowledges that he or she understands that he or
16 she will have his or her license administratively revoked pursuant
17 to this section, that he or she waives his or her right to a
18 hearing to contest the revocation, and that he or she understands
19 that he or she is required to have an ignition interlock permit in
20 order to operate a motor vehicle for the period of the revocation
21 and shall include sufficient evidence that an ignition interlock
22 device is installed on one or more vehicles that will be operated
23 by the arrested person. Upon the arrested person's completion of
24 the ignition interlock permit application process, the department
25 shall issue the person an ignition interlock permit, subject to any
26 applicable requirements and any applicable no-drive period if the
27 person is otherwise eligible.

1 (b) An arrested person who is issued an ignition
2 interlock permit pursuant to this section shall receive day-for-day
3 credit for the period he or she has a valid ignition interlock
4 permit against the license revocation period imposed by the court
5 pursuant to section 60-6,197.03 arising from the same incident.

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

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

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

26 (b) If such person submitted to a chemical test which
27 disclosed the presence of a concentration of alcohol in violation

1 of section 60-6,196 and has one or more prior administrative
2 license revocations on which final orders have been issued during
3 the immediately preceding fifteen-year period at the time the order
4 of revocation is issued, the ignition interlock permit will be
5 available beginning fifteen days after the date of arrest or the
6 date notice of revocation was given to the arrested person plus
7 forty-five additional days of no driving as long as he or she is
8 otherwise eligible for an ignition interlock permit;

9 (c) If such person refused to submit to a chemical test
10 of blood, breath, or urine as required by section 60-6,197, the
11 ignition interlock permit will be available beginning fifteen days
12 after the date notice of revocation was given to the arrested
13 person plus ninety additional days of no driving as long as he or
14 she is otherwise eligible for an ignition interlock permit; and

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

19 ~~(7)~~ (9) The director shall adopt and promulgate rules
20 and regulations to govern the conduct of the administrative license
21 revocation hearing and insure that the hearing will proceed in
22 an orderly manner. The director may appoint a hearing officer to
23 preside at the hearing, administer oaths, examine witnesses, take
24 testimony, and report to the director. Any motion for discovery
25 filed by the petitioner shall entitle the prosecutor to receive
26 full statutory discovery from the petitioner upon a prosecutor's
27 request to the relevant court pursuant to section 29-1912 in

1 any criminal proceeding arising from the same arrest. A copy
2 of the motion for discovery shall be filed with the department
3 and a copy provided to the prosecutor in the jurisdiction in
4 which the petitioner was arrested. Incomplete discovery shall not
5 stay the hearing unless the petitioner requests a continuance.

6 All proceedings before the hearing officer shall be recorded.
7 Upon receipt of the arresting peace officer's sworn report, the
8 director's order of revocation has prima facie validity and it
9 becomes the petitioner's burden to establish by a preponderance of
10 the evidence grounds upon which the operator's license revocation
11 should not take effect. The director shall make a determination
12 of the issue within seven days after the conclusion of the
13 hearing. A person whose operator's license is revoked following a
14 hearing requested pursuant to this section may appeal the order of
15 revocation as provided in section 60-498.04.

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

25 Sec. 24. Section 60-498.02, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 60-498.02 (1) At the expiration of ~~thirty~~ fifteen days

1 after the date of arrest as described in subsection (2) of section
2 60-6,197 or if after a hearing pursuant to section 60-498.01 the
3 director finds that the operator's license should be revoked,
4 the director shall (a) revoke the operator's license of a person
5 arrested for refusal to submit to a chemical test of blood, breath,
6 or urine as required by section 60-6,197 for a period of one year
7 and (b) revoke the operator's license of a person who submits to a
8 chemical test pursuant to such section which discloses the presence
9 of a concentration of alcohol specified in section 60-6,196 for
10 a period of ~~ninety~~ one hundred eighty days unless the person's
11 driving record abstract maintained in the department's computerized
12 records shows one or more prior administrative license revocations
13 on which final orders have been issued during the immediately
14 preceding ~~twelve-year~~ fifteen-year period at the time the order of
15 revocation is issued, in which case the period of revocation shall
16 be one year. Except as otherwise provided in section 60-6,211.05,
17 a new operator's license shall not be issued to such person until
18 the period of revocation has elapsed. If the person subject to
19 the revocation is a nonresident of this state, the director shall
20 revoke only the nonresident's operating privilege as defined in
21 section 60-474 of such person and shall immediately forward the
22 operator's license and a statement of the order of revocation to
23 the person's state of residence.

24 ~~(2)(a) At the expiration of thirty days after an order of~~
25 ~~revocation is entered under subdivision (1)(b) of this section, any~~
26 ~~person whose operator's license has been administratively revoked~~
27 ~~for a period of ninety days for submitting to a chemical test~~

1 pursuant to section 60-6,197 which disclosed the presence of a
2 concentration of alcohol in violation of section 60-6,196 may make
3 application to the director for issuance of an employment driving
4 permit pursuant to section 60-4,130.

5 (b) At the expiration of sixty days after an order of
6 revocation is entered under subdivision (1)(a) of this section, any
7 person whose operator's license has been administratively revoked
8 for refusal to submit to a chemical test pursuant to section
9 60-6,197, may make application to the director for issuance of
10 an employment driving permit pursuant to section 60-4,130 unless
11 the person's driving record abstract maintained in the department's
12 computerized records shows one or more prior administrative license
13 revocations on which final orders have been issued during the
14 immediately preceding twelve-year period at the time the order of
15 revocation is issued.

16 (3)(a) At the expiration of thirty days after an order
17 of administrative license revocation for ninety days is entered
18 under subdivision (1)(b) of this section, any person who submitted
19 to a chemical test pursuant to section 60-6,197 which disclosed
20 the presence of a concentration of alcohol in violation of section
21 60-6,196 is eligible for an order to allow application for an
22 ignition interlock permit to operate a motor vehicle equipped with
23 an ignition interlock device pursuant to section 60-6,211.05 upon
24 presentation of sufficient evidence to the department that such a
25 device is installed.

26 (b) At the expiration of sixty days after an order of
27 administrative license revocation for one year is entered under

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

9 ~~(c) At the expiration of sixty days after an order~~
10 ~~of administrative license revocation is entered under subdivision~~
11 ~~(1)(a) of this section, any person who refused to submit to a~~
12 ~~chemical test pursuant to section 60-6,197 is eligible for an order~~
13 ~~to allow application for an ignition interlock permit in order to~~
14 ~~operate a motor vehicle equipped with an ignition interlock device~~
15 ~~pursuant to section 60-6,211.05 upon presentation of sufficient~~
16 ~~evidence to the department that such a device is installed, unless~~
17 ~~the person's driving record abstract maintained in the department's~~
18 ~~computerized records shows one or more prior administrative license~~
19 ~~revocations on which final orders have been issued during the~~
20 ~~immediately preceding twelve-year period at the time the order of~~
21 ~~revocation is issued.~~

22 ~~(d) (c) A person operating a motor vehicle pursuant to~~
23 ~~this subsection under an ignition interlock permit issued pursuant~~
24 ~~to sections 60-498.01 to 60-498.04 who has no previous convictions~~
25 ~~under section 60-6,196, 60-6,197, or 60-6,197.06 or a previous~~
26 ~~administrative license revocation shall only operate the motor~~
27 ~~vehicle to and from his or her residence, for purposes of his or~~

1 her place of employment, his or her school, ~~an alcohol~~ a substance
2 abuse treatment program, his or her parole or probation officer,
3 his or her continuing health care or the continuing health care
4 of another person who is dependent upon the person, his or her
5 court-ordered community service responsibilities, or an ignition
6 interlock service facility. A person operating a motor vehicle
7 under an ignition interlock permit issued pursuant to sections
8 60-498.01 to 60-498.04 who has a previous conviction under section
9 60-6,196, 60-6,197, or 60-6,197.06 or a previous administrative
10 license revocation shall only operate the motor vehicle to and
11 from his or her residence for purposes of his or her employment,
12 his or her school, or a substance abuse treatment program. Such
13 permit shall indicate for which purposes the permit may be used.
14 All permits issued pursuant to this subsection shall indicate that
15 the permit is not valid for the operation of any commercial motor
16 vehicle.

17 ~~(4)~~ (3) A person may have his or her eligibility for a
18 license reinstated upon payment of a reinstatement fee as required
19 by section 60-694.01.

20 ~~(5)(a)~~ (4)(a) A person whose operator's license is
21 subject to revocation pursuant to subsection (3) of section
22 60-498.01 shall have all proceedings dismissed or his or her
23 operator's license immediately reinstated without payment of the
24 reinstatement fee upon receipt of suitable evidence by the director
25 that:

26 (i) ~~Within the thirty-day period following the date~~
27 ~~of arrest, the~~ The prosecuting attorney responsible for the

1 matter declined to file a complaint alleging a violation of
2 section 60-6,196; ~~and notified the director by first-class mail or~~
3 ~~facsimile transmission of such decision and the director received~~
4 ~~such notice within such period or the notice was postmarked within~~
5 ~~such period; or~~

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

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

12 (A) The peace officer did not have probable cause to
13 believe the person was operating or in the actual physical control
14 of a motor vehicle in violation of section 60-6,196 or a city or
15 village ordinance enacted in conformance with such section; or

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

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

23 (c) If a criminal charge is filed or refiled for a
24 violation of section 60-6,196 pursuant to an arrest for which
25 all administrative license revocation proceedings were dismissed
26 under this subsection, the ~~prosecuting attorney shall notify the~~
27 ~~director by first-class mail or facsimile transmission of the~~

1 ~~filing of such charge and the director, upon notification or~~
2 ~~discovery,~~ may reinstate an administrative license revocation under
3 this section as of the date that the director receives notification
4 of the filing or refiling of the charge, except that a revocation
5 shall not be reinstated if it was dismissed pursuant to section
6 60-498.01.

7 Sec. 25. Section 60-498.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-498.03 (1) ~~The Director of Motor Vehicles~~ director
10 shall reduce the decision revoking an operator's license under
11 sections 60-498.01 to 60-498.04 to writing, and the director shall
12 notify the person in writing of the revocation. The notice shall
13 set forth the period of revocation and be served by mailing it to
14 such person ~~by certified or registered mail~~ to the address provided
15 to the director at the administrative license revocation hearing
16 or, if the person does not appear at the hearing, to the address
17 appearing on the records of the director. If the address on the
18 director's records differs from the address on the arresting peace
19 officer's report, the notice shall be sent to both addresses.

20 (2) If the director does not revoke the operator's
21 license, the director shall immediately notify the person in
22 writing of the decision. The notice shall set forth the time and
23 place the person may obtain his or her license. The notice shall
24 be mailed ~~by certified or registered mail~~ as provided in subsection
25 (1) of this section. No reinstatement fee shall be charged for
26 return of the confiscated operator's license pursuant to this
27 subsection.

1 Sec. 26. Section 60-498.04, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-498.04 Any person who feels himself or herself
4 aggrieved because of the revocation of his or her operator's
5 license under sections 60-498.01 to 60-498.04 may appeal therefrom
6 to the district court of the county where the alleged events
7 occurred for which he or she was arrested the appeal shall be in
8 accordance with the Administrative Procedure Act, section 84-917.
9 The district court shall allow any party to an appeal to appear
10 by telephone at any proceeding before the court for purposes of
11 the appeal. Such appeal shall not suspend the order of revocation,
12 ~~until the final judgment of a court finds against the person so~~
13 ~~appealing.~~ The court shall provide notice of the final judgment
14 to the ~~Department of Motor Vehicles.~~ department. The period of
15 revocation shall commence at the time of final judgment of the
16 court for the full period of the time of revocation.

17 Sec. 27. Section 60-4,115, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 60-4,115 (1) Fees for operators' licenses and state
20 identification cards shall be collected and distributed according
21 to the table in subsection (2) of this section, except for the
22 ignition interlock permit and associated fees as outlined in
23 subsection (4) of this section. County officials shall remit the
24 county portion of the fees collected to the county treasurer for
25 placement in the county general fund. All other fees collected
26 shall be remitted to the State Treasurer for credit to the
27 appropriate fund. The State Treasurer shall transfer an amount

1 equal to three dollars and fifty cents times the number of original
2 or renewal Class M licenses issued pursuant to section 60-4,127
3 during the previous year from the Department of Motor Vehicles Cash
4 Fund to the Motorcycle Safety Education Fund.

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

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

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

1	endorsement, or restriction	5.00	0	5.00	0
2	School permit:				
3	Original	8.00	.25	5.00	2.75
4	Duplicate or replacement	11.00	2.75	6.00	2.25
5	Add, change, or remove class,				
6	endorsement, or restriction	5.00	0	5.00	0
7	Farm permit:				
8	Original or renewal	5.00	.25	0	4.75
9	Duplicate or replacement	5.00	.25	0	4.75
10	Temporary	5.00	.25	0	4.75
11	Add, change, or remove class,				
12	endorsement, or restriction	5.00	0	5.00	0
13	Driving permits:				
14	Employment	45.00	0	5.00	40.00
15	Medical hardship	45.00	0	5.00	40.00
16	Duplicate or replacement	10.00	.25	5.00	4.75
17	Add, change, or remove class,				
18	endorsement, or restriction	5.00	0	5.00	0
19	Commercial driver's license:				
20	Valid for 1 year or less	11.00	1.75	5.00	4.25
21	Valid for more than 1 year				
22	but not more than 2 years	22.00	1.75	5.00	15.25
23	Valid for more than 2 years				
24	but not more than 3 years	33.00	1.75	5.00	26.25
25	Valid for more than 3 years				
26	but not more than 4 years	44.00	1.75	5.00	37.25
27	Valid for 5 years	55.00	1.75	5.00	48.25
28	Bioptic or telescopic lens restriction:				
29	Valid for one year or less	11.00	1.75	5.00	4.25

1	Valid for more than 1 year				
2	but not more than 2 years	22.00	1.75	5.00	15.25
3	Duplicate or replacement	11.00	2.75	6.00	2.25
4	Add, change, or remove class,				
5	endorsement, or restriction	10.00	1.75	5.00	3.25
6	LPC-learner's permit:				
7	Original or renewal	10.00	.25	5.00	4.75
8	Duplicate or replacement	10.00	.25	5.00	4.75
9	Add, change, or remove class,				
10	endorsement, or restriction	10.00	.25	5.00	4.75
11	Seasonal permit:				
12	Original or renewal	10.00	.25	5.00	4.75
13	Duplicate or replacement	10.00	.25	5.00	4.75
14	Add, change, or remove class,				
15	endorsement, or restriction	10.00	.25	5.00	4.75
16	School bus permit:				
17	Original or renewal	5.00	0	5.00	0
18	Duplicate or replacement	5.00	0	5.00	0
19	Add, change, or remove class,				
20	endorsement, or restriction	5.00	0	5.00	0

21 (3) If the department issues an operator's license or a
22 state identification card, the department shall remit the county
23 portion of the fees to the State Treasurer for credit to the
24 Department of Motor Vehicles Cash Fund.

25 (4) (a) The fee for an ignition interlock permit shall be
26 forty-five dollars. Five dollars of the fee shall be remitted to
27 the State Treasurer for credit to the Department of Motor Vehicles
28 Cash Fund. Forty dollars of the fee shall be remitted to the State

1 Treasurer for credit to the ~~Probation Cash~~ Department of Motor
2 Vehicles Ignition Interlock Fund.

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

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

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

1 the State Treasurer for credit to the Department of Motor Vehicles
2 Cash Fund.

3 Sec. 28. Section 60-4,118.06, Reissue Revised Statutes of
4 Nebraska, is amended to read:

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

1 substance abuse treatment program, his or her parole or probation
2 officer, his or her continuing health care or the continuing health
3 care of another person who is dependent upon the person, his or her
4 court-ordered community service responsibilities, or an ignition
5 interlock service facility. Any person issued an ignition interlock
6 permit pursuant to a court order who has a previous conviction
7 under section 60-6,196, 60-6,197, or 60-6,197.06 or a previous
8 administrative license revocation shall only operate the motor
9 vehicle to and from his or her residence for purposes of his or
10 her employment, his or her school, or a substance abuse treatment
11 program. The permit shall indicate for which purposes the permit
12 may be used. All permits issued pursuant to this subsection shall
13 indicate that the permit is not valid for the operation of any
14 commercial motor vehicle.

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

23 (3) (a) An ignition interlock permit shall not be issued
24 to any person except in cases of a violation of subdivision (3) (b)
25 or (c) of section 28-306, subdivision (3) (b) or (c) of section
26 28-394, or section 60-6,196, 60-6,197, or 60-6,197.06.

27 (b) An ignition interlock permit shall only be available

1 to a holder of a Class M or O operator's license.

2 (4) The director shall revoke the ignition interlock
3 permit for an individual upon receipt of an (a) abstract of
4 conviction indicating that the individual had his or her operating
5 privileges revoked or canceled or (b) administrative order
6 revoking or canceling the individual's operating privileges, if
7 such conviction or order resulted from an incident other than
8 the incident which resulted in the application for the ignition
9 interlock permit.

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

16 Sec. 29. Section 60-4,129, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-4,129 (1) Any individual whose operator's license
19 is revoked under section ~~60-498.02~~, 60-4,183, or 60-4,186 or
20 suspended under section 43-3318 shall be eligible to operate any
21 motor vehicle, except a commercial motor vehicle, in this state
22 under an employment driving permit. An employment driving permit
23 issued due to a revocation under section ~~60-498.02~~, 60-4,183, or
24 60-4,186 is valid for the period of revocation. An employment
25 driving permit issued due to a suspension of an operator's license
26 under section 43-3318 is valid for no more than three months
27 and cannot be renewed. ~~An employment driving permit shall not~~

1 be issued to any person subject to an administrative license
2 revocation who submitted to a chemical test pursuant to section
3 ~~60-6,197~~ which disclosed the presence of a concentration of alcohol
4 in violation of section ~~60-6,196~~ if the person's driving record
5 abstract maintained in the department's computerized records shows
6 one or more prior administrative license revocations on which
7 final orders have been issued during the immediately preceding
8 twelve-year period at the time the order of revocation is issued.

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

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

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

27 (5) The director shall revoke the employment driving

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

9 Sec. 30. Section 60-4,164, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 60-4,164 (1) Any person who operates or is in the actual
12 physical control of a commercial motor vehicle upon a highway in
13 this state shall be deemed to have given his or her consent to
14 submit to a chemical test or tests of his or her blood or breath
15 for the purpose of determining the amount of alcoholic content in
16 his or her blood or breath.

17 (2) Any law enforcement officer who has been duly
18 authorized to make arrests for violations of traffic laws of
19 this state or of ordinances of any city or village who, after
20 stopping or detaining the operator of any commercial motor vehicle,
21 has reasonable grounds to believe that the operator was driving or
22 in the actual physical control of a commercial motor vehicle while
23 having any alcoholic liquor in his or her body may require such
24 operator to submit to a chemical test or tests of his or her blood
25 or breath for the purpose of determining the alcoholic content of
26 such blood or breath.

27 (3) Any law enforcement officer who has been duly

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

18 (4) Any person operating or in the actual physical
19 control of a commercial motor vehicle who submits to a chemical
20 test or tests of his or her blood or breath which discloses the
21 presence of any alcoholic liquor in his or her body shall be
22 placed out of service for twenty-four hours by the law enforcement
23 officer.

24 (5) Any person operating or in the actual physical
25 control of a commercial motor vehicle who refuses to submit to
26 a chemical test or tests of his or her blood or breath or any
27 person operating or in the actual physical control of a commercial

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

16 (6) Any person involved in a commercial motor vehicle
17 accident in this state may be required to submit to a chemical
18 test or tests of his or her blood or breath by any law enforcement
19 officer if the officer has reasonable grounds to believe that
20 such person was driving or was in actual physical control of a
21 commercial motor vehicle on a highway in this state while under
22 the influence of alcoholic liquor at the time of the accident. A
23 person involved in a commercial motor vehicle accident subject to
24 the implied consent law of this state shall not be deemed to have
25 withdrawn consent to submit to a chemical test or tests of his or
26 her blood or breath by reason of leaving this state. If the person
27 refuses a test or tests under this section and leaves the state for

1 any reason following an accident, he or she shall remain subject to
2 this section upon return.

3 Sec. 31. Section 60-601, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-601 Sections 60-601 to 60-6,379 and sections 37 and 40
6 of this act shall be known and may be cited as the Nebraska Rules
7 of the Road.

8 Sec. 32. Section 60-6,197, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 60-6,197 (1) Any person who operates or has in his or
11 her actual physical control a motor vehicle in this state shall be
12 deemed to have given his or her consent to submit to a chemical
13 test or tests of his or her blood, breath, or urine for the purpose
14 of determining the concentration of alcohol or the presence of
15 drugs in such blood, breath, or urine.

16 (2) Any peace officer who has been duly authorized to
17 make arrests for violations of traffic laws of this state or of
18 ordinances of any city or village may require any person arrested
19 for any offense arising out of acts alleged to have been committed
20 while the person was driving or was in actual physical control of
21 a motor vehicle while under the influence of alcoholic liquor or
22 drugs to submit to a chemical test or tests of his or her blood,
23 breath, or urine for the purpose of determining the concentration
24 of alcohol or the presence of drugs in such blood, breath, or
25 urine when the officer has reasonable grounds to believe that such
26 person was driving or was in the actual physical control of a motor
27 vehicle in this state while under the influence of alcoholic liquor

1 or drugs in violation of section 60-6,196.

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

17 (4) Any person involved in a motor vehicle accident in
18 this state may be required to submit to a chemical test or tests
19 of his or her blood, breath, or urine by any peace officer if
20 the officer has reasonable grounds to believe that the person was
21 driving or was in actual physical control of a motor vehicle on a
22 public highway in this state while under the influence of alcoholic
23 liquor or drugs at the time of the accident. A person involved in
24 a motor vehicle accident subject to the implied consent law of this
25 state shall not be deemed to have withdrawn consent to submit to
26 a chemical test of his or her blood, breath, or urine by reason
27 of leaving this state. If the person refuses a test under this

1 section and leaves the state for any reason following an accident,
2 he or she shall remain subject to subsection (3) of this section
3 and section 60-498.02 upon return.

4 (5) Any person who is required to submit to a chemical
5 blood, breath, or urine test or tests pursuant to this section
6 shall be advised that refusal to submit to such test or tests is
7 a separate crime for which the person may be charged. Failure to
8 provide such advisement shall not affect the admissibility of the
9 chemical test result in any legal proceedings. However, failure to
10 provide such advisement shall negate the state's ability to bring
11 any criminal charges against a refusing party pursuant to this
12 section.

13 (6) Refusal to submit to a chemical blood, breath, or
14 urine test or tests pursuant to this section shall be admissible
15 evidence in any action for a violation of section 60-6,196 or a
16 city or village ordinance enacted in conformance with such section.

17 Sec. 33. Section 60-6,197.02, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 60-6,197.02 (1) A violation of section 60-6,196 or
20 60-6,197 shall be punished as provided in section 60-6,197.03.
21 For purposes of sentencing under section 60-6,197.03:

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

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

26 (A) Any conviction for a violation of subdivision (3)(b)
27 or (c) of section 28-306, subdivision (3)(b) or (c) of section

1 28-394, section 60-6,196, 60-6,197, or 60-6,198 or section 2 of
2 this act;

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

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

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

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

15 (A) Any conviction for a violation of subdivision (3)(b)
16 or (c) of section 28-306, subdivision (3)(b) or (c) of section
17 28-394, section 60-6,196, 60-6,197, or 60-6,198 or section 2 of
18 this act;

19 (B) Any conviction for a violation of a city or village
20 ordinance enacted in conformance with section 60-6,196 or 60-6,197;
21 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,
24 the offense for which the person was convicted would have been a
25 violation of section 60-6,196, 60-6,197, or 60-6,198 or section 2
26 of this act;

27 (b) Prior conviction includes any conviction under

1 section 60-6,196, 60-6,197, or 60-6,198, or any city or village
2 ordinance enacted in conformance with any of such sections, as
3 such sections or city or village ordinances existed at the time of
4 such conviction regardless of subsequent amendments to any of such
5 sections or city or village ordinances; and

6 (c) ~~Twelve-year~~ Fifteen-year period means the period
7 computed from the date of the prior offense to the date of the
8 offense which resulted in the conviction for which the sentence is
9 being imposed.

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

21 (3) For each conviction for a violation of section
22 60-6,196 or 60-6,197, the court shall, as part of the judgment of
23 conviction, make a finding on the record as to the number of the
24 convicted person's prior convictions. The convicted person shall
25 be given the opportunity to review the record of his or her prior
26 convictions, bring mitigating facts to the attention of the court
27 prior to sentencing, and make objections on the record regarding

1 the validity of such prior convictions.

2 (4) A person arrested for a violation of section 60-6,196
3 or 60-6,197 before ~~May 14, 2009~~, the operative date of this act
4 but sentenced pursuant to section 60-6,197.03 for such violation
5 on or after ~~May 14, 2009~~, the operative date of this act shall
6 be sentenced according to the provisions of section 60-6,197.03 in
7 effect on the date of arrest.

8 Sec. 34. Section 60-6,197.03, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 60-6,197.03 Any person convicted of a violation of
11 section 60-6,196 or 60-6,197 shall be punished as follows:

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

1 device installed on any motor vehicle he or she operates during
2 the remainder of the revocation period. No ignition interlock
3 permit may be issued until sufficient evidence is presented to the
4 Department of Motor Vehicles that an ignition interlock device is
5 installed on any motor vehicle the person operates and that the
6 person is eligible for use of an ignition interlock device. Such
7 revocation ~~or impoundment~~ shall be administered upon sentencing,
8 upon final judgment of any appeal or review, or upon the date that
9 any probation is revoked.

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

20 (2) If such person has not had a prior conviction
21 and, as part of the current violation, had a concentration of
22 fifteen-hundredths of one gram or more by weight of alcohol per
23 one hundred milliliters of his or her blood or fifteen-hundredths
24 of one gram or more by weight of alcohol per two hundred ten
25 liters of his or her breath, such person shall be guilty of a
26 Class W misdemeanor, and the court shall, as part of the judgment
27 of conviction, revoke the operator's license of such person for

1 a period of one year from the date ordered by the court. The
2 revocation order shall require ~~that the person not drive for~~
3 ~~a period of sixty days,~~ after which the court may order that
4 the person apply for an ignition interlock permit pursuant to
5 subdivision (1)(b) of section 60-6,197.01 for the remainder of the
6 revocation period and have an ignition interlock device installed
7 on any motor vehicle he or she operates during the remainder of
8 the revocation period. Such revocation shall be administered upon
9 sentencing, upon final judgment of any appeal or review, or upon
10 the date that any 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 one
15 year from the date ordered by the court. The revocation order
16 shall require ~~that the person not drive for a period of forty-five~~
17 ~~days,~~ after which the court may order that the person apply for
18 an ignition interlock permit pursuant to subdivision (1)(b) of
19 section 60-6,197.01 for the remainder of the revocation period
20 and have an ignition interlock device installed on any motor
21 vehicle he or she operates during the remainder of the revocation
22 period. Such revocation shall be administered upon sentencing, upon
23 final judgment of any appeal or review, or upon the date that
24 any probation is revoked. Such order of probation or sentence
25 suspension shall also include, as conditions, the payment of a
26 five-hundred-dollar fine and either confinement in the city or
27 county jail for two days or the imposition of not less than one

1 hundred twenty hours of community service_+

2 (3) Except as provided in subdivision (5) of this
3 section, if such person has had one prior conviction, such person
4 shall be guilty of a Class W misdemeanor, and the court shall,
5 as part of the judgment of conviction, order that the operator's
6 license of such person be revoked for a period of one year from
7 the date ordered by the court. The revocation order shall require
8 that the person not drive for a period of ~~sixty~~ forty-five days,
9 after which the court ~~may~~ shall order that the person apply for
10 an ignition interlock permit for the remainder of the revocation
11 period and have an ignition interlock device installed on any
12 motor vehicle he or she owns or operates during the remainder
13 of the revocation period and shall issue an order pursuant to
14 subdivision (1)(b) of section 60-6,197.01. Such revocation shall be
15 administered upon sentencing, upon final judgment of any appeal or
16 review, or upon the date that any probation is revoked.

17 If the court places such person on probation or suspends
18 the sentence for any reason, the court shall, as one of the
19 conditions of probation or sentence suspension, order that the
20 operator's license of such person be revoked for a period of one
21 year from the date ordered by the court. The revocation order shall
22 require that the person not drive for a period of forty-five days,
23 after which the court ~~may~~ shall order that during the period of
24 revocation the person apply for an ignition interlock permit and
25 installation of an ignition interlock device pursuant to section
26 60-6,211.05 and shall issue an order pursuant to subdivision
27 (1)(b) of section 60-6,197.01. Such order of probation or sentence

1 suspension shall also include, as conditions, the payment of a
2 five-hundred-dollar fine and either confinement in the city or
3 county jail for ten days or the imposition of not less than two
4 hundred forty hours of community service_+
5

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

15 If the court places such person on probation or suspends
16 the sentence for any reason, the court shall, as one of the
17 conditions of probation or sentence suspension, order that the
18 operator's license of such person be revoked for a period of at
19 least two years but not more than fifteen years from the date
20 ordered by the court. The revocation order shall require that the
21 person not drive for a period of forty-five days, after which the
22 court may order that during the period of revocation the person
23 apply for an ignition interlock permit and installation of an
24 ignition interlock device issued pursuant to section 60-6,211.05
25 and shall issue an order pursuant to subdivision (1)(b) of section
26 60-6,197.01. Such order of probation or sentence suspension shall
27 also include, as conditions, the payment of a six-hundred-dollar
fine and confinement in the city or county jail for thirty days;

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

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

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

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

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

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

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

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

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

26 If the court places such person on probation or suspends
27 the sentence for any reason, the court shall, as one of the

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

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

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

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

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

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

19 Sec. 35. Section 60-6,197.05, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 60-6,197.05 Any period of revocation imposed by the court
22 for a violation of section 60-6,196 or 60-6,197 shall be reduced
23 by any period imposed under section 60-498.02. Any period of
24 revocation imposed under subdivision (1) of section 60-6,197.03 for
25 a violation of section 60-6,196 or 60-6,197 or under subdivision
26 (2)(a) of section 60-6,196, as such section existed prior to July
27 16, 2004, shall not prohibit the operation of a motor vehicle under

1 ~~the terms and conditions of an employment driving permit issued~~
2 ~~pursuant to subsection (2) of section 60-498.02.~~

3 Sec. 36. Section 60-6,197.09, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 60-6,197.09 Notwithstanding the provisions of section
6 ~~60-498.02~~ ~~or~~ 60-6,197.03, a person who commits a violation
7 punishable under subdivision (3)(b) or (c) of section 28-306
8 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while
9 participating in criminal proceedings for a violation of section
10 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance
11 enacted in accordance with section 60-6,196 or 60-6,197, or a
12 law of another state if, at the time of the violation under
13 the law of such other state, the offense for which the person
14 was charged would have been a violation of section 60-6,197,
15 shall not be eligible to receive a sentence of probation, or
16 a suspended sentence, ~~or an employment driving permit authorized~~
17 ~~under subsection (2) of section 60-498.02~~ for either violation
18 committed in this state.

19 Sec. 37. The Department of Motor Vehicles shall conduct
20 an ongoing public education campaign to inform the residents of
21 this state of the dangers and consequences of driving under the
22 influence of alcohol or drugs in this state. Information shall
23 include, but not be limited to, the criminal and administrative
24 penalties for driving under the influence, any related laws, rules,
25 instructions, and any explanatory matter. The department shall use
26 its best efforts to utilize all available opportunities for making
27 public service announcements on television and radio broadcasts for

1 the public education campaign and to obtain and utilize federal
2 funds for highway safety and other grants in conducting the public
3 education campaign. The information may be included in publications
4 containing information related to other motor vehicle laws and
5 shall be given wide distribution by the department.

6 Sec. 38. Section 60-6,198, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 60-6,198 (1) Any person who, while operating a motor
9 vehicle in violation of section 60-6,196 or 60-6,197, proximately
10 causes serious bodily injury to another person or an unborn child
11 of a pregnant woman shall be guilty of a Class IIIA felony and
12 the court shall, as part of the judgment of conviction, order
13 the person not to drive any motor vehicle for any purpose for a
14 period of at least sixty days and not more than fifteen years from
15 the date ordered by the court and shall order that the operator's
16 license of such person be revoked for the same period.

17 (2) For purposes of this section, serious bodily injury
18 shall mean bodily injury which involves a substantial risk of
19 death, a substantial risk of serious permanent disfigurement, or a
20 temporary or protracted loss or impairment of the function of any
21 part or organ of the body.

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

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

1 Sec. 39. Section 60-6,211.05, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-6,211.05 (1) (a) If an order is granted under ~~section~~
4 ~~60-6,196 or 60-6,197~~, as such sections existed prior to July 16,
5 2004, ~~or~~ section 60-6,196 or 60-6,197 and sections 60-6,197.02
6 and 60-6,197.03, as such sections existed ~~on or~~ after July 16,
7 2004, the court may order that the defendant install an ignition
8 interlock device of a type approved by the Director of Motor
9 Vehicles on each motor vehicle operated by the defendant during
10 the period of ~~probation~~. revocation. Upon sufficient evidence of
11 installation, the defendant may apply to the director for an
12 ignition interlock permit pursuant to section 60-4,118.06. The
13 device shall, without tampering or the intervention of another
14 person, prevent the defendant from operating the motor vehicle
15 when the defendant has an alcohol concentration greater than
16 three-hundredths of one gram or more by weight of alcohol per
17 one hundred milliliters of his or her blood or three-hundredths
18 of one gram or more by weight of alcohol per two hundred ten
19 liters of his or her breath. The Department of Motor Vehicles
20 shall issue an ignition interlock permit to the defendant under
21 section 60-4,118.06 only upon sufficient proof that a defendant has
22 installed an ignition interlock device on any motor vehicle that
23 the defendant will operate during his or her release.

24 (b) If the court orders an ignition interlock permit
25 and installation of an ignition interlock device as part of the
26 judgment of conviction pursuant to section 60-6,197.03, the device
27 shall be of a type approved by the director and shall be installed

1 on each motor vehicle operated by the defendant. The device shall,
2 without tampering or the intervention of another person, prevent
3 the defendant from operating the motor vehicle when the defendant
4 has an alcohol concentration greater than three-hundredths of one
5 gram or more by weight of alcohol per one hundred milliliters of
6 his or her blood or three-hundredths of one gram or more by weight
7 of alcohol per two hundred ten liters of his or her breath.

8 (2) If the court orders installation of an ignition
9 interlock device and issuance of an ignition interlock permit
10 pursuant to subsection (1) of this section, the court may also
11 order the use of a continuous alcohol monitoring device and
12 abstention from alcohol use at all times. The device shall, without
13 tampering or the intervention of another person, test and record
14 the alcohol consumption level of the defendant on a periodic basis
15 and transmit such information to probation authorities.

16 (3) Any order issued by the court pursuant to this
17 section shall not take effect until the defendant is eligible to
18 operate a motor vehicle pursuant to subsection ~~(3)~~ (8) of section
19 ~~60-498.02.~~ 60-498.01. A person shall be eligible to be issued an
20 ignition interlock permit allowing operation of a motor vehicle
21 equipped with an ignition interlock device if he or she is not
22 subject to any other suspension, cancellation, required no-driving
23 period, or period of revocation, and has successfully completed
24 the ignition interlock permit application process. The Department
25 of Motor Vehicles shall review its records and the driving record
26 abstract of any person who applies for an ignition interlock permit
27 allowing operation of a motor vehicle equipped with an ignition

1 interlock device to determine (a) the applicant's eligibility
2 for an ignition interlock permit, (b) the applicant's previous
3 convictions under section 60-6,196, 60-6,197, or 60-6,197.06 or
4 any previous administrative license revocation, if any, (c) if the
5 applicant is subject to any required no-drive periods before the
6 ignition interlock permit may be issued, and (d) the permitted
7 driving uses to be allowed to that person on his or her ignition
8 interlock permit.

9 (4) (a) If the court orders an ignition interlock device
10 or the Board of Pardons orders an ignition interlock device under
11 section 83-1,127.02, the court or the Board of Pardons shall order
12 the defendant to apply for an ignition interlock permit as provided
13 in section 60-4,118.06 which indicates that the defendant is only
14 allowed to operate a motor vehicle equipped with an ignition
15 interlock device.

16 (b) Such court order shall remain in effect for a
17 period of time as determined by the court not to exceed the
18 maximum term of revocation which the court could have imposed
19 according to the nature of the violation and shall allow operation
20 by the defendant of an ignition-interlock-equipped motor vehicle
21 only to and (i) if the defendant has no previous conviction
22 under section 60-6,196, 60-6,197, or 60-6,197.06 or a previous
23 administrative license revocation, to and from the defendant's his
24 or her residence, the defendant's place of for purposes of his or
25 her employment, the defendant's his or her school, an alcohol a
26 substance abuse treatment program, his or her probation officer,
27 his or her continuing health care or the continuing health care

1 of another person who is dependent upon the person, his or her
2 court-ordered community service responsibilities, or an ignition
3 interlock service facility or (ii) if the defendant has a previous
4 conviction under section 60-6,196, 60-6,197, or 60-6,197.06 or a
5 previous administrative license revocation, to and from his or her
6 residence for purposes of his or her employment, his or her school,
7 or a substance abuse treatment program.

8 (c) Such Board of Pardons order shall remain in effect
9 for a period of time not to exceed any period of revocation the
10 applicant is subject to at the time the application for a reprieve
11 is made.

12 ~~(5) A person who tampers with or circumvents an ignition~~
13 ~~interlock device installed under a court order while the order~~
14 ~~is in effect, who operates a motor vehicle which is not equipped~~
15 ~~with an ignition interlock device in violation of a court order~~
16 ~~made pursuant to this section, or who otherwise operates a motor~~
17 ~~vehicle equipped with an ignition interlock device in violation of~~
18 ~~the requirements of the court order under which the device was~~
19 ~~installed shall be guilty of a Class II misdemeanor.~~

20 ~~(6) (5) Any person restricted to operating a motor~~
21 ~~vehicle equipped with an ignition interlock device, pursuant to a~~
22 ~~Board of Pardons order, who operates upon the highways of this~~
23 ~~state a motor vehicle without such device or if the device has been~~
24 ~~disabled, bypassed, or altered in any way, shall be punished as~~
25 ~~provided in subsection (3) of section 83-1,127.02.~~

26 ~~(7) (6) If a person ordered to use a continuous alcohol~~
27 ~~monitoring device and abstain from alcohol use pursuant to a court~~

1 order as provided in subsection (2) of this section violates the
2 provisions of such court order by removing, tampering with, or
3 otherwise bypassing the continuous alcohol monitoring device or
4 by consuming alcohol while required to use such device, he or
5 she shall have his or her ignition interlock permit revoked and
6 be unable to apply for reinstatement for the duration of the
7 revocation period imposed by the court.

8 ~~(8)~~ (7) The director shall adopt and promulgate rules and
9 regulations regarding the approval of ignition interlock devices,
10 the means of installing ignition interlock devices, and the means
11 of administering the ignition interlock permit program.

12 ~~(9)~~ (8)(a) The costs incurred in order to comply with
13 the ignition interlock requirements of this section shall be paid
14 directly to the ignition interlock provider by the person complying
15 with an order for an ignition interlock permit and installation of
16 an ignition interlock device. unless

17 (b) If the Department of Motor Vehicles has determined
18 the person to be indigent and incapable of paying for the cost
19 of installation, removal, or maintenance of the ignition interlock
20 device in accordance with this section, such costs shall be
21 paid out of the Department of Motor Vehicles Ignition Interlock
22 Fund, which is hereby created, if such funds are available,
23 according to rules and regulations adopted and promulgated by the
24 department. Such costs shall also be paid out of the Department
25 of Motor Vehicles Ignition Interlock Fund if the court or the
26 Board of Pardons, whichever is applicable, has determined the
27 person to be indigent and incapable of paying for the cost of

1 installation, removal, or maintenance of the ignition interlock
2 device in accordance with this ~~subsection~~, section. Any money in
3 the fund available for investment shall be invested by the state
4 investment officer pursuant to the Nebraska Capital Expansion Act
5 and the Nebraska State Funds Investment Act.

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

15 (ii) An ignition interlock service facility shall notify
16 the Department of Motor Vehicles, if the ignition interlock
17 permit is made pursuant to sections 60-498.01 to 60-498.02, of
18 any evidence of tampering with or circumvention of an ignition
19 interlock device, or any attempts to do so, when the facility
20 becomes aware of such evidence. Failure of the facility to
21 provide notification as provided in this subdivision is a Class V
22 misdemeanor.

23 (b) If a district probation office receives evidence of
24 tampering with or circumvention of an ignition interlock device, or
25 any attempts to do so, from an ignition interlock service facility,
26 the district probation office shall notify the appropriate court of
27 such violation. The court shall immediately schedule an evidentiary

1 hearing to be held within fourteen days after receiving such
2 evidence, either from the district probation office or an ignition
3 interlock service facility, and the court shall cause notice of
4 the hearing to be given to the person operating a motor vehicle
5 pursuant to an order under subsection (1) of this section. If
6 the person who is the subject of such evidence does not appear
7 at the hearing and show cause why the order made pursuant to
8 subsection (1) of this section should remain in effect, the court
9 shall rescind the original order. Nothing in this subsection shall
10 apply to an order made by the Board of Pardons pursuant to section
11 83-1,127.02.

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

20 (10) Notwithstanding any other provision of law, the
21 issuance of an ignition interlock permit by the Department of Motor
22 Vehicles under section 60-498.01 or an order for the installation
23 of an ignition interlock device and ignition interlock permit
24 made pursuant to subdivision (1)(b) of this section as part of
25 a conviction, as well as the administration of such court order
26 by the Office of Probation Administration for the installation,
27 maintenance, and removal of such device, as applicable, shall not

1 be construed to create an order of probation when an order of
2 probation has not been issued.

3 Sec. 40. (1) Any person who tampers with or circumvents
4 an ignition interlock device installed under a court order or
5 Department of Motor Vehicles order while the order is in effect or
6 who operates a motor vehicle which is not equipped with an ignition
7 interlock device in violation of a court order or Department of
8 Motor Vehicles order shall be guilty of a Class IV felony.

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

14 Sec. 41. This act becomes operative on January 1, 2012.

15 Sec. 42. Original sections 28-306, 28-394, 29-215,
16 29-1917, 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03,
17 37-1254.05, 37-1254.07, 37-1254.08, 37-1295, 53-180, 53-180.05,
18 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115, 60-4,118.06,
19 60-4,129, 60-4,164, 60-601, 60-6,197, 60-6,197.02, 60-6,197.03,
20 60-6,197.05, 60-6,197.09, 60-6,198, and 60-6,211.05, Reissue
21 Revised Statutes of Nebraska, and sections 28-101, 29-2259.01,
22 and 37-1201, Revised Statutes Cumulative Supplement, 2010, are
23 repealed.