

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 667**

Introduced by Flood, 19.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to alcohol; to amend sections 28-306, 29-215,  
2 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03,  
3 37-1254.05, 37-1254.07, 37-1254.08, 37-1295, 53-180,  
4 53-180.05, 60-498, 60-4,110, 60-4,118.06, 60-4,129,  
5 60-4,164, 60-4,182, 60-601, 60-6,196, 60-6,197,  
6 60-6,197.02, 60-6,197.03, 60-6,197.09, 60-6,198,  
7 60-6,211.04, 60-6,211.05, 84-205, and 84-913.03, Reissue  
8 Revised Statutes of Nebraska, and sections 28-101,  
9 29-901, 29-2259.01, and 37-1201, Revised Statutes  
10 Cumulative Supplement, 2010; to prohibit transportation  
11 of a minor by an intoxicated driver; to change and  
12 eliminate penalties and the determination of penalties  
13 relating to motor vehicle homicide and operating a motor  
14 vehicle under the influence; to change provisions  
15 relating to blood and breath alcohol content testing; to  
16 require operator's license impoundment as a condition of  
17 bail as prescribed; to change ignition interlock

1 provisions; to change provisions relating to enforcement  
2 of the State Boat Act and operating a boat, personal  
3 watercraft, or motor vehicle under the influence; to  
4 change provisions and a penalty relating to the crime and  
5 penalty of procuring alcohol for a minor or a mentally  
6 incompetent person; to eliminate administrative license  
7 revocation; to harmonize provisions; to repeal the  
8 original sections; and to outright repeal sections  
9 60-498.01, 60-498.02, 60-498.03, 60-498.04, and  
10 60-6,197.05, Reissue Revised Statutes of Nebraska.  
11 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

25           (3) The crime defined in this section shall be treated as

1 a separate and distinct offense from any other offense arising out of  
2 acts alleged to have been committed while the person was in violation  
3 of this section. A sentence imposed under this section shall be  
4 consecutive to any other sentence imposed.

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

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

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

13           (3)(a) If the proximate cause of the death of another is  
14 the operation of a motor vehicle in violation of section 60-6,213 or  
15 60-6,214, motor vehicle homicide is a Class IIIA felony.

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

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

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

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

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

20 Sec. 4. Section 29-215, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 29-215 (1) A law enforcement officer has the power and  
23 authority to enforce the laws of this state and of the political  
24 subdivision which employs the law enforcement officer or otherwise  
25 perform the functions of that office anywhere within his or her

1 primary jurisdiction.

2 (2) Any law enforcement officer who is within this state,  
3 but beyond his or her primary jurisdiction, has the power and  
4 authority to enforce the laws of this state or any legal ordinance of  
5 any city or incorporated village or otherwise perform the functions  
6 of his or her office, including the authority to arrest and detain  
7 suspects, as if enforcing the laws or performing the functions within  
8 his or her primary jurisdiction in the following cases:

9 (a) Any such law enforcement officer, if in a fresh  
10 attempt to apprehend a person suspected of committing a felony, may  
11 follow such person into any other jurisdiction in this state and  
12 there arrest and detain such person and return such person to the law  
13 enforcement officer's primary jurisdiction;

14 (b) Any such law enforcement officer, if in a fresh  
15 attempt to apprehend a person suspected of committing a misdemeanor  
16 or a traffic infraction, may follow such person anywhere in an area  
17 within twenty-five miles of the boundaries of the law enforcement  
18 officer's primary jurisdiction and there arrest and detain such  
19 person and return such person to the law enforcement officer's  
20 primary jurisdiction;

21 (c) Any such law enforcement officer shall have such  
22 enforcement and arrest and detention authority when responding to a  
23 call in which a local, state, or federal law enforcement officer is  
24 in need of assistance. A law enforcement officer in need of  
25 assistance shall mean (i) a law enforcement officer whose life is in

1 danger or (ii) a law enforcement officer who needs assistance in  
2 making an arrest and the suspect (A) will not be apprehended unless  
3 immediately arrested, (B) may cause injury to himself or herself or  
4 others or damage to property unless immediately arrested, or (C) may  
5 destroy or conceal evidence of the commission of a crime; and

6 (d) Any municipality or county may, under the provisions  
7 of the Interlocal Cooperation Act or the Joint Public Agency Act,  
8 enter into a contract with any other municipality or county for law  
9 enforcement services or joint law enforcement services. Under such an  
10 agreement, law enforcement personnel may have such enforcement  
11 authority within the jurisdiction of each of the participating  
12 political subdivisions if provided for in the agreement. Unless  
13 otherwise provided in the agreement, each participating political  
14 subdivision shall provide liability insurance coverage for its own  
15 law enforcement personnel as provided in section 13-1802.

16 (3) When probable cause exists to believe that a person  
17 is operating or in the actual physical control of any motor vehicle,  
18 motorboat, personal watercraft, or aircraft while under the influence  
19 of alcoholic liquor or of any drug or otherwise in violation of  
20 section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163,  
21 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the law  
22 enforcement officer has the power and authority to do any of the  
23 following or any combination thereof:

24 (a) Transport such person to a facility outside of the  
25 law enforcement officer's primary jurisdiction for appropriate

1 chemical testing of the person;

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

5 (c) With respect to such person, perform other procedures  
6 or functions outside of the law enforcement officer's primary  
7 jurisdiction which are directly and solely related to enforcing the  
8 laws that concern a person operating or being in the actual physical  
9 control of any motor vehicle, motorboat, or aircraft while under the  
10 influence of alcoholic liquor or of any other drug or otherwise in  
11 violation of section 28-1465, 28-1466, 28-1472, 37-1254.01,  
12 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or  
13 60-6,211.02.

14 (4) For purposes of this section:

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

18 (b) Primary jurisdiction means the geographic area within  
19 the territorial limits of the state or political subdivision which  
20 employs the law enforcement officer.

21 Sec. 5. Section 29-901, Revised Statutes Cumulative  
22 Supplement, 2010, is amended to read:

23 29-901 (1) Any bailable defendant shall be ordered  
24 released from custody pending judgment on his or her personal  
25 recognizance unless the judge determines in the exercise of his or



1 her discretion that such a release will not reasonably assure the  
2 appearance of the defendant as required or that such a release could  
3 jeopardize the safety and maintenance of evidence or the safety of  
4 victims, witnesses, or other persons in the community. When such  
5 determination is made, the judge shall either in lieu of or in  
6 addition to such a release impose the first of the following  
7 conditions of release which will reasonably assure the appearance of  
8 the person for trial or, if no single condition gives that assurance,  
9 any combination of the following conditions:

10           ~~(1)~~—(a) Place the defendant in the custody of a  
11 designated person or organization agreeing to supervise the  
12 defendant;

13           ~~(2)~~—(b) Place restrictions on the travel, association, or  
14 place of abode of the defendant during the period of such release;

15           ~~(3)~~—(c) Require, at the option of any bailable defendant,  
16 either of the following:

17           ~~(a)~~—(i) The execution of an appearance bond in a  
18 specified amount and the deposit with the clerk of the court in cash  
19 of a sum not to exceed ten percent of the amount of the bond, ninety  
20 percent of such deposit to be returned to the defendant upon the  
21 performance of the appearance or appearances and ten percent to be  
22 retained by the clerk as appearance bond costs, except that when no  
23 charge is subsequently filed against the defendant or if the charge  
24 or charges which are filed are dropped before the appearance of the  
25 defendant which the bond was to assure, the entire deposit shall be

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

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

20 If the amount of bail is deemed insufficient by the court  
21 before which the offense is pending, the court may order an increase  
22 of such bail and the defendant shall provide the additional  
23 undertaking, written or cash, to secure his or her release. All  
24 recognizances in criminal cases shall be in writing and be continuous  
25 from term to term until final judgment of the court in such cases and

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

18 ~~(4)~~ (d) Impose any other condition deemed reasonably  
19 necessary to assure appearances as required, including a condition  
20 requiring that the defendant return to custody after specified hours.

21 (2) The court shall also require the operator's license  
22 of a bailable defendant be impounded if the defendant has been  
23 arrested or received a citation for a violation of section 60-6,196  
24 or 60-6,197. Upon a request by the defendant, the court shall hold a  
25 hearing within ten days after the date the request is filed to

1 determine whether the defendant may obtain an ignition interlock  
2 permit in order to operate a motor vehicle with an ignition interlock  
3 device pursuant to section 60-6,211.05. No defendant whose license is  
4 expired, suspended, or revoked in an action other than the instant  
5 offense shall be issued an ignition interlock permit. Installation  
6 and maintenance of an ignition interlock device shall be at the  
7 defendant's own expense.

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

10           29-2259.01 (1) There is hereby created the Probation Cash  
11 Fund. All money collected pursuant to subdivisions (2)(m) and (2)(o)  
12 of section 29-2262 and subdivisions (4)(a) and (4)(b) of section  
13 60-4,115 shall be remitted to the State Treasurer for credit to the  
14 fund.

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

20           (3)(a) The Office of Probation Administration shall use  
21 no more than five percent of the money in the fund collected in each  
22 fiscal year pursuant to subdivisions (4)(a) and (4)(b) of section  
23 60-4,115 for administrative costs of the office.

24           (b) Expenditures from the money in the fund collected  
25 pursuant to subdivisions (4)(a) and (4)(b) of section 60-4,115 shall

1 also be used to provide for the cost of installing, removing, and  
2 maintaining an ignition interlock device in accordance with  
3 subsection ~~(9)~~(7) of section 60-6,211.05. The office shall not be  
4 required to pay costs authorized under this subdivision that exceed  
5 the amount of funds available for this purpose.

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

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

12 Sec. 7. Section 37-1201, Revised Statutes Cumulative  
13 Supplement, 2010, is amended to read:

14 37-1201 Sections 37-1201 to 37-12,110 and sections 15,  
15 16, 17, and 18 of this act shall be known and may be cited as the  
16 State Boat Act. It is the policy of this state to promote safety for  
17 persons and property in and connected with the use, operation, and  
18 equipment of vessels and to promote uniformity of laws relating  
19 thereto.

20 Sec. 8. Section 37-1238.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 37-1238.01 No person other than a rescue squad member  
23 actually en route to, at, or returning from any emergency requiring  
24 the services of such member or any ~~law enforcement~~peace officer in  
25 the performance of his or her official duties shall operate a vessel

1 equipped with a rotating or flashing red or blue light or lights upon  
2 the waters of this state.

3 Sec. 9. Section 37-1254.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 37-1254.01 (1) No person shall be in the actual physical  
6 control of any motorboat or personal watercraft under propulsion upon  
7 the waters of this state:

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

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

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

16 ~~(2) Any person who is in the actual physical control of~~  
17 ~~any motorboat under propulsion upon the waters of this state while in~~  
18 ~~a condition described in subsection (1) of this section shall be~~  
19 ~~guilty of a Class II misdemeanor. Upon conviction the court shall, as~~  
20 ~~part of the judgment of conviction, order such person not to be in~~  
21 ~~the physical control of a motorboat under propulsion upon the waters~~  
22 ~~of this state for any purpose for a period of six months from the~~  
23 ~~date of such conviction, except that if the court places such person~~  
24 ~~on probation or suspends the sentence for any reason, the court~~  
25 ~~shall, as one of the conditions of probation or sentence suspension,~~

1 ~~order such person not to be in the physical control of any motorboat~~  
2 ~~under propulsion upon the waters of this state for any purpose for a~~  
3 ~~period of sixty days from the date of the order.~~

4           ~~(3)~~(2) Any city or village may enact ordinances in  
5 conformance with this section and section 37-1254.02. Upon conviction  
6 of any person of a violation of such a city or village ordinance, the  
7 provisions of sections 17 and 18 of this act shall be applicable the  
8 same as though it were a violation of this section or section  
9 37-1254.02.

10           (3) Any person who is in the actual physical control of  
11 any motorboat or personal watercraft under propulsion upon the waters  
12 of this state while in a condition described in subsection (1) of  
13 this section shall be guilty of a crime and upon conviction punished  
14 as provided in section 18 of this act.

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

20           Sec. 10. Section 37-1254.02, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           37-1254.02 (1) Any person who has in his or her actual  
23 physical control a motorboat or personal watercraft under propulsion  
24 upon the waters of this state shall be deemed to have given his or  
25 her consent to submit to a chemical test or tests of his or her

1 blood, ~~or~~ breath, or urine for the purpose of determining the ~~amount~~  
2 ~~of alcohol content~~ concentration of alcohol or the presence of drugs  
3 in such blood, ~~or~~ breath, or urine.

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

22 (3) ~~Any law enforcement officer who has been duly~~  
23 ~~authorized to make arrests for violations of laws of this state or~~  
24 ~~ordinances of any city or village may require any person who has in~~  
25 ~~his or her actual physical control a motorboat under propulsion upon~~



1 ~~the waters of this state to submit to a preliminary test of his or~~  
2 ~~her breath for alcohol content if the officer has reasonable grounds~~  
3 ~~to believe that such person has alcohol in his or her body or has~~  
4 ~~committed any violation of this section and section 37-1254.01. Any~~  
5 ~~person who refuses to submit to such preliminary breath test or whose~~  
6 ~~preliminary breath test results indicate an alcohol content of eight-~~  
7 ~~hundredths of one gram or more by weight of alcohol per two hundred~~  
8 ~~ten liters of his or her breath shall be placed under arrest. Any~~  
9 ~~person who refuses to submit to such preliminary breath test shall be~~  
10 ~~guilty of a Class III misdemeanor.~~

11 ~~(4)-(3) Any person arrested pursuant to as described in~~  
12 ~~subsection (2) of this section may, upon the direction of a law~~  
13 ~~enforcement peace officer, be required to submit to a chemical test~~  
14 ~~or tests of his or her blood, or breath, or urine for a determination~~  
15 ~~of the concentration of alcohol or the presence of drugs. alcohol~~  
16 ~~content. Any person who refuses to submit to a chemical blood or~~  
17 ~~breath test required pursuant to this section shall be guilty of a~~  
18 ~~Class II misdemeanor, and the court shall, as part of the judgment of~~  
19 ~~conviction, order such person not to be in the actual physical~~  
20 ~~control of any motorboat under propulsion upon the waters of this~~  
21 ~~state for any purpose for a period of six months from the date of~~  
22 ~~such conviction. If the court places such person on probation or~~  
23 ~~suspends the sentence for any reason, the court shall, as one of the~~  
24 ~~conditions of probation or sentence suspension, order such person not~~  
25 ~~to be in the actual physical control of any motorboat under~~

1 ~~propulsion upon the waters of this state for any purpose for a period~~  
2 ~~of sixty days from the date of the order.~~

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

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

21 (6) Any person convicted of a violation of this section  
22 shall be punished as provided in section 18 of this act.

23 (7) Refusal to submit to a chemical blood, breath, or  
24 urine test or tests pursuant to this section shall be admissible  
25 evidence in any action for a violation of section 37-1254.01 or a

1 city or village ordinance enacted in conformance with such section.

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

4           37-1254.03 The ~~law enforcement~~ peace officer who requires  
5 a chemical blood, ~~or~~ breath, or urine test or tests pursuant to  
6 section 37-1254.02 may direct whether the test or tests shall be of  
7 blood, ~~or~~ breath, or urine. When the officer directs that the test or  
8 tests shall be of a person's blood, the person tested shall be  
9 permitted to have a physician of his or her choice evaluate his or  
10 her condition and perform or have performed whatever laboratory tests  
11 such person tested deems appropriate in addition to and following the  
12 test or tests administered at the direction of the ~~law enforcement~~  
13 peace officer. If the officer refuses to permit such additional test  
14 or tests to be taken, then the original test or tests shall not be  
15 competent as evidence. Upon request the results of the test or tests  
16 taken at the direction of the ~~law enforcement~~ peace officer shall be  
17 made available to the person being tested.

18           Sec. 12. Section 37-1254.05, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           37-1254.05 (1) Except as provided in section 37-1254.03,  
21 any test or tests made pursuant to section 37-1254.02, if made in  
22 conformance with the requirements of this section, shall be competent  
23 evidence in any prosecution under a state law or city or village  
24 ordinance regarding the actual physical control of any motorboat or  
25 personal watercraft under propulsion upon the waters of this state

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

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

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

23 (4) Relevant evidence shall not be excluded in any  
24 prosecution under a state statute or city or village ordinance  
25 involving being in the actual physical control of a motorboat or

1 personal watercraft under propulsion upon the waters of this state  
2 while under the influence of alcoholic liquor or drugs or involving  
3 being in the actual physical control of a motorboat or personal  
4 watercraft under propulsion upon the waters of this state when the  
5 concentration of alcohol in the blood or breath is in excess of  
6 allowable levels on the ground that the evidence existed or was  
7 obtained outside of this state.

8           Sec. 13. Section 37-1254.07, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           37-1254.07 Upon the conviction of any person for  
11 violation of section 37-1254.01 or for being in the actual physical  
12 control of a motorboat or personal watercraft under propulsion upon  
13 the waters of this state while under the influence of alcohol or of  
14 ~~any controlled substance as defined in section 28-401~~ drug in  
15 violation of any city or village ordinance, there shall be assessed  
16 as part of the court costs the fee charged by any physician or any  
17 agency administering tests, pursuant to a permit issued in accordance  
18 with section 37-1254.05, for the test administered and the analysis  
19 thereof pursuant to section 37-1254.02 if such test was actually  
20 made.

21           Sec. 14. Section 37-1254.08, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           37-1254.08 Any person arrested for any offense involving  
24 the actual physical control of a motorboat or personal watercraft  
25 under propulsion upon the waters of this state while under the

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

13           Sec. 15. Any peace officer who has been duly authorized  
14 to make arrests for violations of laws of this state or ordinances of  
15 any city or village may require any person who has in his or her  
16 actual physical control a motorboat or personal watercraft under  
17 propulsion upon the waters of this state to submit to a preliminary  
18 test of his or her breath for alcohol concentration if the officer  
19 has reasonable grounds to believe that such person has alcohol in his  
20 or her body or has committed a violation of section 37-1254.01 or  
21 37-1254.02. Any person who refuses to submit to such preliminary  
22 breath test or whose preliminary breath test results indicate an  
23 alcohol concentration in violation of section 37-1254.01 shall be  
24 placed under arrest. Any person who refuses to submit to such  
25 preliminary breath test shall be guilty of a Class III misdemeanor.

1           Sec. 16. (1) It shall be unlawful for any person to be in  
2 the actual physical control of a motorboat or personal watercraft  
3 under propulsion upon the waters of this state during a period of  
4 court-ordered prohibition resulting from a conviction based upon a  
5 violation of section 37-1254.01 or 37-1254.02 or a city or village  
6 ordinance enacted in conformance with either section.

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

9           Sec. 17. (1) For purposes of sentencing under section 18  
10 of this act:

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

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

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

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

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

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

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

24           (B) Any conviction for a violation of a city or village  
25 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, the  
3 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 sections  
8 or city or village ordinances existed at the time of such conviction  
9 regardless of subsequent amendments to any of such sections or city  
10 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 or  
14 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 of  
18 conviction, make a finding on the record whether the convicted person  
19 has a usable prior conviction. The convicted person shall be given  
20 the opportunity to review the record of his or her prior convictions,  
21 bring mitigating facts to the attention of the court prior to  
22 sentencing, and make objections on the record regarding the validity  
23 of such prior convictions.

24           (4) A person arrested for a violation of section  
25 37-1254.01 or 37-1254.02 before the effective date of this act but



1 sentenced for such violation on or after the effective date of this  
2 act shall be sentenced according to the provisions of section  
3 37-1254.01 or 37-1254.02 in effect on the date of arrest.

4           Sec. 18. Any person convicted of a violation of section  
5 37-1254.01 or 37-1254.02 shall be punished as follows:

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

21           (2) If such person has had one or more prior convictions,  
22 such person shall be guilty of a Class I misdemeanor. Upon conviction  
23 the court shall, as part of the judgment of conviction, order such  
24 person not to be in the actual physical control of any motorboat or  
25 personal watercraft under propulsion upon the waters of this state

1 for any purpose for a period of two years from the date of such  
2 conviction. Such order shall be administered upon sentencing or upon  
3 final judgment of any appeal or review. The two-year court-ordered  
4 prohibition shall apply even if probation is granted or the sentence  
5 suspended.

6           Sec. 19. Section 37-1295, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

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

19           Sec. 20. Section 53-180, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

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

25           Sec. 21. Section 53-180.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           53-180.05 (1) ~~Any~~ Except as provided in subsection (2) of  
3 this section, any person violating who violates section 53-180 shall  
4 be guilty of a Class I misdemeanor and serve a mandatory minimum of  
5 at least two days' imprisonment as part of any sentence he or she  
6 receives.

7           (2) Any person who violates section 53-180 shall be  
8 guilty of a Class III felony and serve a mandatory minimum of at  
9 least thirty days' imprisonment as part of any sentence he or she  
10 receives if consumption of the alcoholic liquor provided by such  
11 person proximately caused serious bodily injury or death to the  
12 person who consumed the alcoholic liquor or proximately caused  
13 serious bodily injury or death to any other person.

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

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

20           (5) Any person eighteen years of age or younger violating  
21 section 53-180.02 is guilty of a misdemeanor as provided in section  
22 53-181 and shall be punished as provided in such section.

23           ~~(2)~~ (6) Any person who knowingly manufactures, creates,  
24 or alters any form of identification for the purpose of sale or  
25 delivery of such form of identification to a person under the age of

1 twenty-one years shall be guilty of a Class I misdemeanor. For  
2 purposes of this subsection, form of identification means any card,  
3 paper, or legal document that may be used to establish the age of the  
4 person named thereon for the purpose of purchasing alcoholic liquor.

5 ~~(3)~~(7) When a minor is arrested for a violation of  
6 sections 53-180 to 53-180.02 or subsection ~~(2)~~(6) of this section,  
7 the law enforcement agency employing the arresting peace officer  
8 shall make a reasonable attempt to notify such minor's parent or  
9 guardian of the arrest.

10 Sec. 22. Section 60-498, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 60-498 The director shall immediately revoke the  
13 operator's license of any person upon receiving a copy of judgment of  
14 such person's conviction of any of the following offenses when such  
15 conviction becomes final:

16 (1) Manslaughter resulting from the operation of a motor  
17 vehicle;

18 (2) Driving a motor vehicle while under the influence of  
19 alcoholic liquor or any drug as provided in city or village  
20 ordinances or in section 60-6,196. The period of revocation shall, in  
21 each case, ~~except for revocations pursuant to sections 60-498.01 to~~  
22 ~~60-498.04 and~~ offenses specified in section 60-4,168, correspond with  
23 the period that is determined by the court;

24 (3) Any felony in the commission of which a motor vehicle  
25 is used;

1                   (4) Failure to stop and render aid as required under the  
2 laws of this state in the event of a motor vehicle accident resulting  
3 in the death or personal injury of another;

4                   (5) Perjury or making of a false affidavit or statement  
5 under oath to the director, examining officer, or other officer under  
6 the Motor Vehicle Operator's License Act or under any law relating to  
7 the ownership or operation of motor vehicles;

8                   (6) Conviction or forfeiture of bail, not vacated, upon  
9 three charges of reckless driving committed within a period of twelve  
10 months; or

11                   (7) Willful reckless driving as provided in city or  
12 village ordinances or as described in section 60-6,214.

13                   Sec. 23. Section 60-4,110, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15                   60-4,110 (1) Every motor vehicle, regardless of the  
16 registered owner of the motor vehicle, being operated by a person  
17 whose operator's license has been suspended, revoked, or impounded  
18 pursuant to a conviction or convictions for violation of section  
19 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any  
20 court or an administrative order of the director is hereby declared a  
21 public nuisance. The motor vehicle may be seized upon the arrest of  
22 the operator of the motor vehicle and impounded at the expense of the  
23 owner of the motor vehicle. If such operator's license is suspended,  
24 revoked, or impounded pursuant to section ~~60-498.01, 60-498.02,~~  
25 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the motor vehicle

1 shall be impounded for not less than ten days nor more than thirty  
2 days. No motor vehicle impounded under this section shall be  
3 impounded for a period of time exceeding thirty days except as  
4 provided in subsection (3) of this section.

5 (2) Any motor vehicle impounded shall be released:

6 (a) To the holder of a bona fide lien on the motor  
7 vehicle executed prior to such impoundment when possession of the  
8 motor vehicle is requested as provided by law by such lienholder for  
9 purposes of foreclosing and satisfying his or her lien on the motor  
10 vehicle;

11 (b) To the titled owner of the motor vehicle when the  
12 titled owner is a lessor. Upon learning the address or telephone  
13 number of the rental or leasing company which owns the motor vehicle,  
14 the impounding law enforcement agency shall immediately contact the  
15 company and inform it that the motor vehicle is available for the  
16 company to take possession; or

17 (c) To the registered owner, a registered co-owner, or a  
18 spouse of the owner upon good cause shown by an affidavit or  
19 otherwise to the court before which the complaint is pending against  
20 the operator that the impounded motor vehicle is essential to the  
21 livelihood of the owner, co-owner, or spouse or the dependents of  
22 such owner, co-owner, or spouse.

23 (3) Any person who, at the direction of a peace officer,  
24 tows and stores a motor vehicle pursuant to this section shall have a  
25 lien upon such motor vehicle while in his or her possession for

1 reasonable towing and storage charges and shall have a right to  
2 retain such motor vehicle until such charges are paid.

3 (4) If the registered owner of a motor vehicle was not  
4 the operator of the motor vehicle whose actions caused the motor  
5 vehicle to be impounded, the registered owner of the motor vehicle  
6 may recover civilly from the operator of the motor vehicle all  
7 expenses incurred by reason of the impoundment. In the case of a  
8 criminal action, the court may order such operator of the motor  
9 vehicle to pay restitution to the registered owner in an amount equal  
10 to any expenses incurred with respect to impoundment.

11 Sec. 24. Section 60-4,118.06, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 60-4,118.06 (1) Upon receipt by the director of (a) a  
14 certified copy of a court order issued pursuant to section  
15 60-6,211.05, a certified copy of an order for installation of an  
16 ignition interlock device and issuance of an ignition interlock  
17 permit pursuant to subdivision (1), (2), or (3) of section  
18 60-6,197.03, or a copy of an order from the Board of Pardons pursuant  
19 to section 83-1,127.02, (b) sufficient evidence that the person has  
20 surrendered his or her operator's license to the Department of Motor  
21 Vehicles and installed an approved ignition interlock device in  
22 accordance with such order, and (c) payment of the fee provided in  
23 section 60-4,115, such person may apply for an ignition interlock  
24 permit. ~~A person subject to administrative license revocation under~~  
25 ~~section 60-498.02 shall be eligible for an ignition interlock permit~~

1 ~~as provided in such section.~~ The director shall issue an ignition  
2 interlock permit for the operation of a motor vehicle equipped with  
3 an ignition interlock device. Any person issued an ignition interlock  
4 permit pursuant to a court order shall only operate the motor vehicle  
5 equipped with an ignition interlock device to and from his or her  
6 residence, his or her place of employment, his or her school, an  
7 alcohol treatment program, or an ignition interlock service facility.  
8 The permit shall indicate for which purposes the permit may be used.  
9 All permits issued pursuant to this subsection shall indicate that  
10 the permit is not valid for the operation of any commercial motor  
11 vehicle.

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

19 (3) A person who operates a motor vehicle in violation of  
20 the purposes for operation indicated on the ignition interlock permit  
21 shall be guilty of a Class II misdemeanor, shall have his or her  
22 ignition interlock permit revoked, and shall serve the balance of any  
23 revocation period without the privilege to operate a motor vehicle  
24 using an ignition interlock device.

25 Sec. 25. Section 60-4,129, Reissue Revised Statutes of



1 Nebraska, is amended to read:

2           60-4,129 (1) Any individual whose operator's license is  
3 revoked under section ~~60-498.02, 60-4,183,~~ or 60-4,186 or suspended  
4 under section 43-3318 shall be eligible to operate any motor vehicle,  
5 except a commercial motor vehicle, in this state under an employment  
6 driving permit. An employment driving permit issued due to a  
7 revocation under section ~~60-498.02, 60-4,183,~~ or 60-4,186 is valid  
8 for the period of revocation. An employment driving permit issued due  
9 to a suspension of an operator's license under section 43-3318 is  
10 valid for no more than three months and cannot be renewed. ~~An~~  
11 ~~employment driving permit shall not be issued to any person subject~~  
12 ~~to an administrative license revocation who submitted to a chemical~~  
13 ~~test pursuant to section 60-6,197 which disclosed the presence of a~~  
14 ~~concentration of alcohol in violation of section 60-6,196 if the~~  
15 ~~person's driving record abstract maintained in the department's~~  
16 ~~computerized records shows one or more prior administrative license~~  
17 ~~revocations on which final orders have been issued during the~~  
18 ~~immediately preceding twelve year period at the time the order of~~  
19 ~~revocation is issued.~~

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

25           (3) An individual who is issued an employment driving

1 permit may operate any motor vehicle, except a commercial motor  
2 vehicle, (a) from his or her residence to his or her place of  
3 employment and return and (b) during the normal course of employment  
4 if the use of a motor vehicle is necessary in the course of such  
5 employment. Such permit shall indicate for which purposes the permit  
6 may be used. All permits issued pursuant to this section shall  
7 indicate that the permit is not valid for the operation of any  
8 commercial motor vehicle.

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

13 (5) The director shall revoke the employment driving  
14 permit for an individual upon receipt of an abstract of conviction,  
15 other than a conviction which is based upon actions which resulted in  
16 the application for such employment driving permit, indicating that  
17 the individual committed an offense for which points are assessed  
18 pursuant to section 60-4,182. If the permit is revoked in this  
19 manner, the individual shall not be eligible to receive an employment  
20 driving permit for the remainder of the period of suspension or  
21 revocation of his or her operator's license.

22 Sec. 26. Section 60-4,164, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 60-4,164 (1) Any person who operates or is in the actual  
25 physical control of a commercial motor vehicle upon a highway in this

1 state shall be deemed to have given his or her consent to submit to a  
2 chemical test or tests of his or her blood or breath for the purpose  
3 of determining the amount of alcoholic content in his or her blood or  
4 breath.

5 (2) Any law enforcement officer who has been duly  
6 authorized to make arrests for violations of traffic laws of this  
7 state or of ordinances of any city or village who, after stopping or  
8 detaining the operator of any commercial motor vehicle, has  
9 reasonable grounds to believe that the operator was driving or in the  
10 actual physical control of a commercial motor vehicle while having  
11 any alcoholic liquor in his or her body may require such operator to  
12 submit to a chemical test or tests of his or her blood or breath for  
13 the purpose of determining the alcoholic content of such blood or  
14 breath.

15 (3) Any law enforcement officer who has been duly  
16 authorized to make arrests for violations of traffic laws of this  
17 state or of ordinances of any city or village may require any person  
18 who operates or has in his or her actual physical control a  
19 commercial motor vehicle upon a highway in this state to submit to a  
20 preliminary breath test of his or her breath for alcoholic content if  
21 the officer has reasonable grounds to believe that such person has  
22 any alcoholic liquor in his or her body, has committed a moving  
23 traffic violation, or has been involved in a traffic accident. Any  
24 such person who refuses to submit to a preliminary breath test shall  
25 be placed under arrest and shall be guilty of a Class V misdemeanor.

1 Any person arrested for refusing to submit to a preliminary breath  
2 test or any person who submits to a preliminary breath test the  
3 results of which indicate the presence of any alcoholic liquor in  
4 such person's body may, upon the direction of a law enforcement  
5 officer, be required to submit to a chemical test or tests of his or  
6 her blood or breath for a determination of the alcoholic content.

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

12 (5) Any person operating or in the actual physical  
13 control of a commercial motor vehicle who refuses to submit to a  
14 chemical test or tests of his or her blood or breath or any person  
15 operating or in the actual physical control of a commercial motor  
16 vehicle who ~~submits to a chemical test or tests of his or her blood~~  
17 ~~or breath which discloses an alcoholic~~ has, or is measured to have  
18 within two hours of operating or being in actual physical control of  
19 a commercial motor vehicle, a concentration of: (a) Four-hundredths  
20 of one gram or more by weight of alcohol per one hundred milliliters  
21 of his or her blood or (b) four-hundredths of one gram or more by  
22 weight of alcohol per two hundred ten liters of his or her breath  
23 shall be placed out of service for twenty-four hours by the law  
24 enforcement officer, and the officer shall forward to the director a  
25 sworn report. The report shall state that the person was operating or

1 in the actual physical control of a commercial motor vehicle, was  
2 requested to submit to the required chemical test or tests, and  
3 refused to submit to the required chemical test or tests or submitted  
4 to the required chemical test or tests and possessed an alcohol  
5 concentration at or in excess of that specified by this subsection.

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

19 Sec. 27. Section 60-4,182, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 60-4,182 In order to prevent and eliminate successive  
22 traffic violations, there is hereby provided a point system dealing  
23 with traffic violations as disclosed by the files of the director.  
24 The following point system shall be adopted:

25 (1) Conviction of motor vehicle homicide - 12 points;

1                   (2) Third offense drunken driving in violation of any  
2 city or village ordinance or of section 60-6,196, as disclosed by the  
3 records of the director, regardless of whether the trial court found  
4 the same to be a third offense - 12 points;

5                   (3) Failure to stop and render aid as required under  
6 section 60-697 in the event of involvement in a motor vehicle  
7 accident resulting in the death or personal injury of another - 6  
8 points;

9                   (4) Failure to stop and report as required under section  
10 60-696 or any city or village ordinance in the event of a motor  
11 vehicle accident resulting in property damage - 6 points;

12                   (5) Driving a motor vehicle while under the influence of  
13 alcoholic liquor or any drug or when such person has, or is measured  
14 to have within two hours from the time such person was driving a  
15 motor vehicle, a concentration of eight-hundredths of one gram or  
16 more by weight of alcohol per one hundred milliliters of his or her  
17 blood or per two hundred ten liters of his or her breath in violation  
18 of any city or village ordinance or of section 60-6,196 - 6 points;

19                   (6) Willful reckless driving in violation of any city or  
20 village ordinance or of section 60-6,214 or 60-6,217 - 6 points;

21                   (7) Careless driving in violation of any city or village  
22 ordinance or of section 60-6,212 - 4 points;

23                   (8) Negligent driving in violation of any city or village  
24 ordinance - 3 points;

25                   (9) Reckless driving in violation of any city or village

1 ordinance or of section 60-6,213 - 5 points;

2 (10) Speeding in violation of any city or village  
3 ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:

4 (a) Not more than five miles per hour over the speed  
5 limit - 1 point;

6 (b) More than five miles per hour but not more than ten  
7 miles per hour over the speed limit - 2 points;

8 (c) More than ten miles per hour but not more than  
9 thirty-five miles per hour over the speed limit - 3 points, except  
10 that one point shall be assessed upon conviction of exceeding by not  
11 more than ten miles per hour, two points shall be assessed upon  
12 conviction of exceeding by more than ten miles per hour but not more  
13 than fifteen miles per hour, and three points shall be assessed upon  
14 conviction of exceeding by more than fifteen miles per hour but not  
15 more than thirty-five miles per hour the speed limits provided for in  
16 subdivision (1)(e), (f), (g), or (h) of section 60-6,186; and

17 (d) More than thirty-five miles per hour over the speed  
18 limit - 4 points;

19 (11) Failure to yield to a pedestrian not resulting in  
20 bodily injury to a pedestrian - 2 points;

21 (12) Failure to yield to a pedestrian resulting in bodily  
22 injury to a pedestrian - 4 points;

23 (13) Using a handheld wireless communication device in  
24 violation of section 60-6,179.01 - 3 points; and

25 (14) All other traffic violations involving the operation

1 of motor vehicles by the operator for which reports to the Department  
2 of Motor Vehicles are required under sections 60-497.01 and 60-497.02  
3 - 1 point.

4 Subdivision (14) of this section does not include  
5 violations involving an occupant protection system pursuant to  
6 section 60-6,270, parking violations, violations for operating a  
7 motor vehicle without a valid operator's license in the operator's  
8 possession, muffler violations, overwidth, overheight, or overlength  
9 violations, motorcycle or moped protective helmet violations, or  
10 overloading of trucks.

11 All such points shall be assessed against the driving  
12 record of the operator as of the date of the violation for which  
13 conviction was had. Points may be reduced by the department under  
14 section 60-4,188.

15 In all cases, the forfeiture of bail not vacated shall be  
16 regarded as equivalent to the conviction of the offense with which  
17 the operator was charged.

18 The point system shall not apply to persons convicted of  
19 traffic violations committed while operating a bicycle or an electric  
20 personal assistive mobility device as defined in section 60-618.02.

21 Sec. 28. Section 60-601, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 60-601 Sections 60-601 to 60-6,379 and section 37 of this  
24 act shall be known and may be cited as the Nebraska Rules of the  
25 Road.



1                   Sec. 29. Section 60-6,196, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   60-6,196 (1) It shall be unlawful for any person to  
4 operate or be in the actual physical control of any motor vehicle:

5                   (a) While under the influence of alcoholic liquor or of  
6 any drug;

7                   (b) When such person has, or is measured to have within  
8 two hours of operating or being in actual physical control of a motor  
9 vehicle, a concentration of eight-hundredths of one gram or more by  
10 weight of alcohol per one hundred milliliters of his or her blood; or

11                   (c) When such person has, or is measured to have within  
12 two hours of operating or being in actual physical control of a motor  
13 vehicle, a concentration of eight-hundredths of one gram or more by  
14 weight of alcohol per two hundred ten liters of his or her breath.

15                   (2) Any person who operates or is in the actual physical  
16 control of any motor vehicle while in a condition described in  
17 subsection (1) of this section shall be guilty of a crime and upon  
18 conviction punished as provided in sections 60-6,197.02 to  
19 60-6,197.08.

20                   Sec. 30. Section 60-6,197, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22                   60-6,197 (1) Any person who operates or has in his or her  
23 actual physical control a motor vehicle in this state shall be deemed  
24 to have given his or her consent to submit to a chemical test or  
25 tests of his or her blood, breath, or urine for the purpose of

1 determining the concentration of alcohol or the presence of drugs in  
2 such blood, breath, or urine.

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

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

1 tests required pursuant to this section shall be ~~subject to the~~  
2 ~~administrative revocation procedures provided in sections 60-498.01~~  
3 ~~to 60-498.04 and shall be guilty of a crime and upon conviction~~  
4 punished as provided in sections 60-6,197.02 to 60-6,197.08.

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

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

1 charges against a refusing party pursuant to this section.

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

6 Sec. 31. Section 60-6,197.02, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 60-6,197.02 (1) A violation of section 60-6,196 or  
9 60-6,197 shall be punished as provided in section 60-6,197.03. For  
10 purposes of sentencing under section 60-6,197.03:

11 (a) Prior conviction means a conviction for which a final  
12 judgment has been entered on or after the date which is exactly  
13 twelve years before the effective date of this act and for a  
14 violation committed within the twelve year period prior to the  
15 offense for which the sentence is being imposed as follows:

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

17 (A) Any conviction for a violation of section 60-6,196,  
18 60-6,197, 60-6,198, or section 2 of 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, the  
24 offense for which the person was convicted would have been a  
25 violation of section 60-6,196, 60-6,197, 60-6,198, or section 2 of

1 this act; or

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

3 ~~or~~

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

5 (A) Any conviction for a violation of section 60-6,196,  
6 60-6,197, 60-6,198, or section 2 of this act;

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

9 or

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

15 (b) Prior conviction includes any conviction under  
16 section 60-6,196, 60-6,197, or 60-6,198, or any city or village  
17 ordinance enacted in conformance with any of such sections, as such  
18 sections or city or village ordinances existed at the time of such  
19 conviction regardless of subsequent amendments to any of such  
20 sections or city or village ordinances. ~~;~~ and

21 ~~(c) Twelve year period means the period computed from the~~  
22 ~~date of the prior offense to the date of the offense which resulted~~  
23 ~~in the conviction for which the sentence is being imposed.~~

24 (2) In any case charging a violation of section 60-6,196  
25 or 60-6,197, the prosecutor or investigating agency shall use due

1 diligence to obtain the person's driving record from the Department  
2 of Motor Vehicles and the person's driving record from other states  
3 where he or she is known to have resided, ~~within the last twelve~~  
4 ~~years.~~ The prosecutor shall certify to the court, prior to  
5 sentencing, that such action has been taken. The prosecutor shall  
6 present as evidence for purposes of sentence enhancement a court-  
7 certified copy or an authenticated copy of a prior conviction in  
8 another state. The court-certified or authenticated copy shall be  
9 prima facie evidence of such prior conviction.

10 (3) For each conviction for a violation of section  
11 60-6,196 or 60-6,197, the court shall, as part of the judgment of  
12 conviction, make a finding on the record as to the number of the  
13 convicted person's prior convictions. The convicted person shall be  
14 given the opportunity to review the record of his or her prior  
15 convictions, bring mitigating facts to the attention of the court  
16 prior to sentencing, and make objections on the record regarding the  
17 validity of such prior convictions.

18 (4) A person arrested for a violation of section 60-6,196  
19 or 60-6,197 before ~~May 14, 2009, the effective date of this act~~ but  
20 sentenced pursuant to section 60-6,197.03 for such violation on or  
21 after ~~May 14, 2009, the effective date of this act~~ shall be sentenced  
22 according to the provisions of section 60-6,197.03 in effect on the  
23 date of arrest.

24 Sec. 32. Section 60-6,197.03, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   60-6,197.03 Any person convicted of a violation of  
2 section 60-6,196 or 60-6,197 shall be punished as follows:

3                   (1) Except as provided in subdivision (2) of this  
4 section, if such person has not had a prior conviction, such person  
5 shall be guilty of a Class W misdemeanor, and the court shall, as  
6 part of the judgment of conviction, order that the operator's license  
7 of such person be revoked ~~or impounded~~ for a period of six months  
8 from the date ordered by the court. ~~If the court orders the person's~~  
9 ~~operator's license impounded, the court shall also order that the~~  
10 ~~person shall not operate a motor vehicle for a period of six months~~  
11 ~~and shall not order the installation of an ignition interlock device~~  
12 ~~or an ignition interlock permit. If the court orders the person's~~  
13 ~~operator's license revoked, the revocation period shall be for six~~  
14 ~~months.~~The revocation order shall require that the person not drive  
15 for a period of thirty days, after which the court ~~may order that~~  
16 shall, upon request made by such person, allow the person to apply  
17 for an ignition interlock permit for the remainder of the revocation  
18 period and have an ignition interlock device installed on any motor  
19 vehicle he or she operates during the remainder of the revocation  
20 period. No ignition interlock permit may be issued until sufficient  
21 evidence is presented to the Department of Motor Vehicles that an  
22 ignition interlock device is installed on any motor vehicle the  
23 person operates and that the person is eligible for use of an  
24 ignition interlock device. Such revocation ~~or impoundment~~ shall be  
25 administered upon sentencing, upon final judgment of any appeal or

1 review, or upon the date that any probation is revoked.

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

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



1 any motor vehicle he or she operates during the remainder of the  
2 revocation period. Such revocation shall be administered upon  
3 sentencing, upon final judgment of any appeal or review, or upon the  
4 date that any probation is revoked.

5           If the court places such person on probation or suspends  
6 the sentence for any reason, the court shall, as one of the  
7 conditions of probation or sentence suspension, order that the  
8 operator's license of such person be revoked for a period of one year  
9 from the date ordered by the court. The revocation order shall  
10 require that the person not drive for a period of forty-five days,  
11 after which the court ~~may~~shall order that during the period of  
12 revocation the person be allowed to apply for an ignition interlock  
13 permit and installment of an ignition interlock device pursuant to  
14 section 60-6,211.05. pursuant to subdivision (1)(b) of section  
15 ~~60-6,197.01 for the remainder of the revocation period and have an~~  
16 ~~ignition interlock device installed on any motor vehicle he or she~~  
17 ~~operates during the remainder of the revocation period.~~ Such  
18 revocation shall be administered upon sentencing, upon final judgment  
19 of any appeal or review, or upon the date that any probation is  
20 revoked. Such order of probation or sentence suspension shall also  
21 include, as conditions, the payment of a five-hundred-dollar fine and  
22 either confinement in the city or county jail for two days or the  
23 imposition of not less than one hundred twenty hours of community  
24 service;

25           (3) Except as provided in subdivision (5) of this

1 section, if such person has had one prior conviction, such person  
2 shall be guilty of a Class W misdemeanor, and the court shall, as  
3 part of the judgment of conviction, order that the operator's license  
4 of such person be revoked for a period of one year from the date  
5 ordered by the court. The revocation order shall require that the  
6 person not drive for a period of sixty days, after which the court  
7 ~~may order that~~ shall, upon request made by such person, allow the  
8 person to apply for an ignition interlock permit for the remainder of  
9 the revocation period and have an ignition interlock device installed  
10 on any motor vehicle he or she owns or operates during the remainder  
11 of the revocation period and shall issue an order pursuant to  
12 subdivision (1)(b) of section 60-6,197.01. Such revocation shall be  
13 administered upon sentencing, upon final judgment of any appeal or  
14 review, or 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 one year  
19 from the date ordered by the court. The revocation order shall  
20 require that the person not drive for a period of forty-five days,  
21 after which the court ~~may~~ shall order that during the period of  
22 revocation the person be allowed to apply for an ignition interlock  
23 permit and installation of an ignition interlock device pursuant to  
24 section 60-6,211.05 and shall issue an order pursuant to subdivision  
25 (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 five-  
2 hundred-dollar fine and either confinement in the city or county jail  
3 for ten days or the imposition of not less than two hundred forty  
4 hours of community service;

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

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

1 also include, as conditions, the payment of a six-hundred-dollar fine  
2 and confinement in the city or county jail for thirty days;

3 (5) If such person has had one prior conviction and, as  
4 part of the current violation, had a concentration of fifteen-  
5 hundredths of one gram or more by weight of alcohol per one hundred  
6 milliliters of his or her blood or fifteen-hundredths of one gram or  
7 more by weight of alcohol per two hundred ten liters of his or her  
8 breath or refused to submit to a test as required under section  
9 60-6,197, such person shall be guilty of a Class I misdemeanor, and  
10 the court shall, as part of the judgment of conviction, revoke the  
11 operator's license of such person for a period of at least one year  
12 but not more than fifteen years from the date ordered by the court  
13 and shall issue an order pursuant to section 60-6,197.01. The  
14 revocation order shall require that the person not drive for one  
15 hundred twenty days, after which the court, shall, upon request made  
16 by such person, allow the person to apply for an ignition interlock  
17 permit pursuant to subdivision (1)(b) of section 60-6,197.01 for the  
18 remainder of the revocation period and have an ignition interlock  
19 device installed on any motor vehicle he or she operates during the  
20 remainder of the revocation period. Such revocation and order shall  
21 be administered upon sentencing, upon final judgment of any appeal or  
22 review, or upon the date that any probation is revoked. The court  
23 shall also sentence such person to serve at least ninety days'  
24 imprisonment in the city or county jail or an adult correctional  
25 facility.

1           If the court places such person on probation or suspends  
2 the sentence for any reason, the court shall, as one of the  
3 conditions of probation or sentence suspension, order that the  
4 operator's license of such person be revoked for a period of at least  
5 one year but not more than fifteen years from the date ordered by the  
6 court. The revocation order shall require that the person not drive  
7 for a period of forty-five days, after which the court ~~may~~shall  
8 order that during the period of revocation the person be allowed to  
9 apply for an ignition interlock permit and installation of an  
10 ignition interlock device issued pursuant to section 60-6,211.05 and  
11 shall issue an order pursuant to subdivision (1)(b) of section  
12 60-6,197.01. Such order of probation or sentence suspension shall  
13 also include, as conditions, the payment of a one-thousand-dollar  
14 fine and confinement in the city or county jail for thirty days;

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

1 upon sentencing, upon final judgment of any appeal or review, or upon  
2 the date that any probation is revoked. The court shall also sentence  
3 such person to serve at least one hundred eighty days' imprisonment  
4 in the city or county jail or an adult correctional facility.

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

19           (7) Except as provided in subdivision (8) of this  
20 section, if such person has had three prior convictions, such person  
21 shall be guilty of a Class IIIA felony, and the court shall, as part  
22 of the judgment of conviction, order that the operator's license of  
23 such person be revoked for a period of fifteen years from the date  
24 ordered by the court and shall issue an order pursuant to section  
25 60-6,197.01. Such orders shall be administered upon sentencing, upon

1 final judgment of any appeal or review, or upon the date that any  
2 probation is revoked. The court shall also sentence such person to  
3 serve at least one hundred eighty days' imprisonment in the city or  
4 county jail or an adult correctional facility.

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

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

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

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

20           (9) Except as provided in subdivision (10) of this  
21 section, if such person has had four or more prior convictions, such  
22 person shall be guilty of a Class III felony, and the court shall, as  
23 part of the judgment of conviction, order that the operator's license  
24 of such person be revoked for a period of fifteen years from the date  
25 ordered by the court and shall issue an order pursuant to section



1 60-6,197.01. Such orders shall be administered upon sentencing, upon  
2 final judgment of any appeal or review, or upon the date that any  
3 probation is revoked.

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

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

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

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

20           Sec. 33. Section 60-6,197.09, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           60-6,197.09 Notwithstanding the provisions of section  
23 ~~60-498.02~~ or 60-6,197.03, a person who commits a violation punishable  
24 under subdivision (3)(b) or (c) of section 28-306 or a violation of  
25 section 60-6,196, 60-6,197, or 60-6,198 while participating in

1 criminal proceedings for a violation of section 60-6,196, 60-6,197,  
2 or 60-6,198, or a city or village ordinance enacted in accordance  
3 with section 60-6,196 or 60-6,197, or a law of another state if, at  
4 the time of the violation under the law of such other state, the  
5 offense for which the person was charged would have been a violation  
6 of section 60-6,197, shall not be eligible to receive a sentence of  
7 probation, or a suspended sentence, ~~or an employment driving permit~~  
8 ~~authorized under subsection (2) of section 60-498.02~~ for either  
9 violation committed in this state.

10           Sec. 34. Section 60-6,198, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

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

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

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

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

8           Sec. 35. Section 60-6,211.04, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           60-6,211.04 Sections 60-6,211.01 to 60-6,211.03 shall not  
11 operate to prevent any person, regardless of age, from being  
12 prosecuted or having any action taken for a violation of section  
13 60-6,196 or 60-6,197 or ~~having his or her operator's license revoked~~  
14 ~~pursuant to sections 60-498.01 to 60-498.04 for a violation of~~  
15 ~~section 60-6,196 or 60-6,197 or~~ from being prosecuted or having any  
16 action taken under any other provision of law. If such person is  
17 believed to be under the influence of alcoholic liquor pursuant to  
18 section 60-6,196 or 60-6,197, sections 60-6,211.01 to 60-6,211.03  
19 shall not operate to prevent prosecution of such person for a  
20 violation of section 60-6,196 or 60-6,197 even if sections  
21 60-6,211.01 to 60-6,211.03 apply.

22           Sec. 36. Section 60-6,211.05, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           60-6,211.05 (1)(a) If an order is granted under section  
25 60-6,196 or 60-6,197, as such sections existed prior to July 16,

1 2004, ~~or~~ section 60-6,196 or 60-6,197 and sections 60-6,197.02 and  
2 60-6,197.03, as such sections existed on or after July 16, 2004, or  
3 section 29-901, the court may order that the defendant install an  
4 ignition interlock device of a type approved by the Director of Motor  
5 Vehicles on each motor vehicle operated by the defendant during the  
6 period of probation or as a condition of bail. Upon sufficient  
7 evidence of installation, the defendant may apply to the director for  
8 an ignition interlock permit pursuant to section 60-4,118.06. The  
9 device shall, without tampering or the intervention of another  
10 person, prevent the defendant from operating the motor vehicle when  
11 the defendant has an alcohol concentration greater than three-  
12 hundredths of one gram or more by weight of alcohol per one hundred  
13 milliliters of his or her blood or three-hundredths of one gram or  
14 more by weight of alcohol per two hundred ten liters of his or her  
15 breath. The Department of Motor Vehicles shall issue an ignition  
16 interlock permit to the defendant only upon sufficient proof that a  
17 defendant has installed an ignition interlock device on any motor  
18 vehicle that the defendant will operate during his or her release.

19 (b) If the court orders an ignition interlock permit and  
20 installation of an ignition interlock device as part of the judgment  
21 of conviction or as a condition of bail pursuant to section  
22 60-6,197.03 or 29-901, respectively, the device shall be of a type  
23 approved by the director and shall be installed on each motor vehicle  
24 operated by the defendant. The device shall, without tampering or the  
25 intervention of another person, prevent the defendant from operating

1 the motor vehicle when the defendant has an alcohol concentration  
2 greater than three-hundredths of one gram or more by weight of  
3 alcohol per one hundred milliliters of his or her blood or three-  
4 hundredths of one gram or more by weight of alcohol per two hundred  
5 ten liters of his or her breath.

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

14 ~~(3) Any order issued by the court pursuant to this~~  
15 ~~section shall not take effect until the defendant is eligible to~~  
16 ~~operate a motor vehicle pursuant to subsection (3) of section~~  
17 ~~60-498.02.~~

18 ~~(4)(a)-(3)(a)~~ If the court orders an ignition interlock  
19 device or the Board of Pardons orders an ignition interlock device  
20 under section 83-1,127.02, the court or the Board of Pardons shall  
21 order the defendant to apply for an ignition interlock permit as  
22 provided in section 60-4,118.06 which indicates that the defendant is  
23 only allowed to operate a motor vehicle equipped with an ignition  
24 interlock device.

25 (b) Such court order shall remain in effect for a period

1 of time as determined by the court not to exceed the maximum term of  
2 revocation which the court could have imposed according to the nature  
3 of the violation and shall allow operation of an ignition-interlock-  
4 equipped motor vehicle only to and from the defendant's residence,  
5 the defendant's place of employment, the defendant's school, an  
6 alcohol treatment program, or an ignition interlock service facility.

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

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

19 ~~(6)~~(4) Any person restricted to operating a motor  
20 vehicle equipped with an ignition interlock device, pursuant to a  
21 Board of Pardons order, who operates upon the highways of this state  
22 a motor vehicle without such device or if the device has been  
23 disabled, bypassed, or altered in any way, shall be punished as  
24 provided in subsection (3) of section 83-1,127.02.

25 ~~(7)~~(5) If a person ordered to use a continuous alcohol

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

9 ~~(8)~~(6) The director shall adopt and promulgate rules and  
10 regulations regarding the approval of ignition interlock devices, the  
11 means of installing ignition interlock devices, and the means of  
12 administering the ignition interlock permit program.

13 ~~(9)~~(7)(a) The costs incurred in order to comply with the  
14 ignition interlock requirements of this section shall be paid by the  
15 person complying with an order for an ignition interlock permit and  
16 installation of an ignition interlock device. ~~unless~~

17 (b) Such costs shall not be imposed if the court or the  
18 Board of Pardons has determined the person to be incapable of paying  
19 for the cost of installation, removal, or maintenance of the ignition  
20 interlock device in accordance with this subsection. This subdivision  
21 shall not apply when an ignition interlock device is ordered pursuant  
22 to section 29-901.

23 ~~(10)(a)~~(8)(a) An ignition interlock service facility  
24 shall notify the appropriate district probation office, if the order  
25 is made pursuant to subdivision (1)(a) of this section, or notify the



1 appropriate court if the order is made pursuant to subdivision (1)(b)  
2 of this section, of any evidence of tampering with or circumvention  
3 of an ignition interlock device, or any attempts to do so, when the  
4 facility becomes aware of such evidence.

5 (b) If a district probation office receives evidence of  
6 tampering with or circumvention of an ignition interlock device, or  
7 any attempts to do so, from an ignition interlock service facility,  
8 the district probation office shall notify the appropriate court of  
9 such violation. The court shall immediately schedule an evidentiary  
10 hearing to be held within fourteen days after receiving such  
11 evidence, either from the district probation office or an ignition  
12 interlock service facility, and the court shall cause notice of the  
13 hearing to be given to the person operating a motor vehicle pursuant  
14 to an order under subsection (1) of this section. If the person who  
15 is the subject of such evidence does not appear at the hearing and  
16 show cause why the order made pursuant to subsection (1) of this  
17 section should remain in effect, the court shall rescind the original  
18 order. Nothing in this subsection shall apply to an order made by the  
19 Board of Pardons pursuant to section 83-1,127.02.

20 ~~(11) Notwithstanding any other provision of law, the~~  
21 ~~costs associated with the installation, maintenance, and removal of a~~  
22 ~~court ordered ignition interlock device by the Office of Probation~~  
23 ~~Administration shall not be construed so as to create an order of~~  
24 ~~probation when an order for the installation of an ignition interlock~~  
25 ~~device and ignition interlock permit was made pursuant to subdivision~~

1 ~~(1)(b) of this section as part of a conviction.~~

2 (9) Notwithstanding any other provision of law, an order  
3 for the installation of an ignition interlock device and ignition  
4 interlock permit made pursuant to subdivision (1)(b) of this section  
5 as part of a conviction, as well as the administration of such order  
6 by the Office of Probation Administration for the installation,  
7 maintenance, and removal of such device, as applicable, shall not be  
8 construed to create an order of probation when an order of probation  
9 has not been issued.

10 Sec. 37. Any person who tampers with or circumvents an  
11 ignition interlock device installed under a court order while the  
12 order is in effect, who operates a motor vehicle which is not  
13 equipped with an ignition interlock device in violation of a court  
14 order, or who otherwise operates a motor vehicle equipped with an  
15 ignition interlock device in violation of the requirements of the  
16 court order under which the device was installed shall be guilty of a  
17 Class I misdemeanor, except that such person shall be guilty of a  
18 Class IV felony if his or her ignition interlock permit was granted  
19 pursuant to subdivision (4), (5), (6), (7), (8), (9), or (10) of  
20 section 60-6,197.03.

21 Sec. 38. Section 84-205, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 84-205 The duties of the Attorney General shall be:

24 (1) To appear and defend actions and claims against the  
25 state;

1           (2) To investigate, commence, and prosecute any and all  
2 actions resulting from violations of sections 32-1401 to 32-1417;

3           (3) To consult with and advise the county attorneys, when  
4 requested by them, in all criminal matters and in matters relating to  
5 the public revenue. He or she shall have authority to require aid and  
6 assistance of the county attorney in all matters pertaining to the  
7 duties of the Attorney General in the county of such county attorney  
8 and may, in any case brought to the Court of Appeals or Supreme Court  
9 from any county, demand and receive the assistance of the county  
10 attorney from whose county such case is brought;

11           (4) To give, when required, without fee, his or her  
12 opinion in writing upon all questions of law submitted to him or her  
13 by the Governor, head of any executive department, Secretary of  
14 State, State Treasurer, Auditor of Public Accounts, Board of  
15 Educational Lands and Funds, State Department of Education, Public  
16 Service Commission, or Legislature;

17           (5) At the request of the Governor, head of any executive  
18 department, Secretary of State, State Treasurer, Auditor of Public  
19 Accounts, Board of Educational Lands and Funds, State Department of  
20 Education, or Public Service Commission, to prosecute any official  
21 bond or any contract in which the state is interested which is  
22 deposited with any of them and to prosecute or defend for the state  
23 all civil or criminal actions and proceedings relating to any matter  
24 connected with any of such officers' departments if, after  
25 investigation, he or she is convinced there is sufficient legal merit

1 to justify the proceeding. Such officers shall not pay or contract to  
2 pay from the funds of the state any money for special attorneys or  
3 counselors-at-law unless the employment of such special counsel is  
4 made upon the written authorization of the Governor or the Attorney  
5 General;

6 (6) To enforce the proper application of money  
7 appropriated by the Legislature to the various funds of the state and  
8 prosecute breaches of trust in the administration of such funds;

9 (7) To prepare, when requested by the Governor, Secretary  
10 of State, State Treasurer, or Auditor of Public Accounts or any other  
11 executive department, proper drafts for contracts, forms, or other  
12 writings which may be wanted for the use of the state and report to  
13 the Legislature, whenever requested, upon any business pertaining to  
14 the duties of his or her office;

15 (8) To pay all money received, belonging to the people of  
16 the state, immediately upon receipt thereof, into the state treasury;

17 (9) To keep a record in proper books provided for that  
18 purpose at the expense of the state, a register of all actions and  
19 demands prosecuted or defended by him or her in behalf of the state  
20 and all proceedings had in relation thereto, and deliver the same to  
21 his or her successor in office;

22 (10) To appear for the state and prosecute and defend all  
23 civil or criminal actions and proceedings in the Court of Appeals or  
24 Supreme Court in which the state is interested or a party. When  
25 requested by the Governor or the Legislature, the Attorney General

1 shall appear for the state and prosecute or defend any action or  
2 conduct any investigation in which the state is interested or a party  
3 before any court, officer, board, tribunal, or commission;

4 (11) To prepare and promulgate model rules of procedure  
5 appropriate for use by as many agencies as possible. The Attorney  
6 General shall add to, amend, or revise the model rules as necessary  
7 for the proper guidance of agencies; and

8 ~~(12) To include within the budget of the office~~  
9 ~~sufficient funding to assure oversight and representation of the~~  
10 ~~State of Nebraska for district court appeals of administrative~~  
11 ~~license revocation proceedings under section 60-498.04; and~~

12 ~~(13)~~ (12) To create a Child Protection Division to be  
13 staffed by at least three assistant attorneys general who each have  
14 five or more years of experience in the prosecution or defense of  
15 felonies or misdemeanors, including two years in the prosecution or  
16 defense of crimes against children. Upon the written request of a  
17 county attorney, the division shall provide consultation and advise  
18 and assist in the preparation of the trial of any case involving a  
19 crime against a child, including, but not limited to, the following  
20 offenses:

21 (a) Murder as defined in sections 28-303 and 28-304;

22 (b) Manslaughter as defined in section 28-305;

23 (c) Kidnapping as defined in section 28-313;

24 (d) False imprisonment as defined in sections 28-314 and  
25 28-315;

- 1 (e) Child abuse as defined in section 28-707;  
2 (f) Pandering as defined in section 28-802;  
3 (g) Debauching a minor as defined in section 28-805; and  
4 (h) Offenses listed in sections 28-813, 28-813.01, and  
5 28-1463.03.

6 Any offense listed in subdivisions (a) through (h) of  
7 this subdivision shall include all inchoate offenses pursuant to the  
8 Nebraska Criminal Code and compounding a felony pursuant to section  
9 28-301. Such crimes shall not include matters involving dependent and  
10 neglected children, infraction violations, custody, parenting time,  
11 visitation, or other access matters, or child support. If the county  
12 attorney declines in writing to prosecute a case involving a crime  
13 against a child because of an ethical consideration, including the  
14 presence or appearance of a conflict of interest, or for any other  
15 reason, the division shall, upon the receipt of a written request of  
16 the county attorney, the Department of Health and Human Services, the  
17 minor child, the parents of the minor child, or any other interested  
18 party, investigate the matter and either decline to prosecute the  
19 matter or initiate the appropriate criminal proceedings in a court of  
20 proper jurisdiction.

21 For purposes of this subdivision, child or children shall  
22 mean an individual or individuals sixteen years of age or younger.

23 Sec. 39. Section 84-913.03, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 84-913.03 The hearing officer may conduct all or part of

1 the prehearing conference and the hearing by telephone, television,  
2 or other electronic means if each participant in the conference or  
3 hearing has an opportunity to participate in, to hear, and, if  
4 technically feasible, to see the entire proceeding while it is taking  
5 place. ~~This section does not apply to a prehearing conference or a~~  
6 ~~hearing held under sections 60-498.01 to 60-498.04.~~

7           Sec. 40. Original sections 28-306, 29-215, 37-1238.01,  
8 37-1254.01, 37-1254.02, 37-1254.03, 37-1254.05, 37-1254.07,  
9 37-1254.08, 37-1295, 53-180, 53-180.05, 60-498, 60-4,110,  
10 60-4,118.06, 60-4,129, 60-4,164, 60-4,182, 60-601, 60-6,196,  
11 60-6,197, 60-6,197.02, 60-6,197.03, 60-6,197.09, 60-6,198,  
12 60-6,211.04, 60-6,211.05, 84-205, and 84-913.03, Reissue Revised  
13 Statutes of Nebraska, and sections 28-101, 29-901, 29-2259.01, and  
14 37-1201, Revised Statutes Cumulative Supplement, 2010, are repealed.

15           Sec. 41. The following sections are outright repealed:  
16 Sections 60-498.01, 60-498.02, 60-498.03, 60-498.04, and 60-6,197.05,  
17 Reissue Revised Statutes of Nebraska.