

LEGISLATIVE BILL 667

Approved by the Governor May 26, 2011

Introduced by Flood, 19.

FOR AN ACT relating to crimes and offenses; to amend sections 28-306, 28-394, 29-215, 29-1917, 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03, 37-1254.05, 37-1254.07, 37-1254.08, 37-1295, 53-180, 53-180.05, 60-497.01, 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115, 60-4,118.06, 60-4,129, 60-4,164, 60-601, 60-6,197, 60-6,197.02, 60-6,197.03, 60-6,197.05, 60-6,197.09, 60-6,198, and 60-6,211.05, Reissue Revised Statutes of Nebraska, and sections 28-101, 29-2259.01, and 37-1201, Revised Statutes Cumulative Supplement, 2010; to prohibit transportation of certain minors by a person under the influence of alcohol or drugs; to change provisions relating to motor vehicle homicide, operating a motorboat, personal watercraft, or motor vehicle under the influence, the Probation Cash Fund, regulation of vessels, procuring alcohol for a minor or a mentally incompetent person, administrative license revocation, ignition interlock permits and devices, and employment driving permits; to change fees; to create a fund; to provide for a public education campaign; to provide, change, and eliminate penalties; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37-1254.08 Any person arrested for any offense involving the actual physical control of a motorboat or personal watercraft under propulsion upon

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 19. Any person convicted of a violation of section 37-1254.01

or 37-1254.02 shall be punished as follows:

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

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

(2) If such person has had one or more prior convictions, such person shall be guilty of a Class I misdemeanor. Upon conviction the court shall, as part of the judgment of conviction, order such person not to be in the actual physical control of any motorboat or personal watercraft under propulsion upon the waters of this state for any purpose for a period of two years from the date of such conviction. Such order shall be administered upon sentencing or upon final judgment of any appeal or review. The two-year court-ordered prohibition shall apply even if probation is granted or the sentence suspended.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 23. Section 60-497.01, Reissue Revised Statutes of Nebraska, is

amended to read:

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

(2) Any person violating section 28-306, 28-394, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 or section 2 of this act who is placed on probation shall be assessed the same points under section 60-4,182 as if such person were not placed on probation unless a court has ordered that such person must obtain an ignition interlock permit in order to operate a motor vehicle with an ignition interlock device pursuant to section 60-6,211.05 and sufficient evidence is presented to the department that such a device is installed. For any other violation, the director shall not assess such person with any points under section 60-4,182 for such violation when the person is placed on probation until the director is advised by the court that such person previously placed on probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. When a person fails to successfully complete probation, the court shall notify the director immediately.

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

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

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

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

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation

shall be effective thirty fifteen days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative license revocation procedure. The peace officer shall also provide to the arrested person an addressed envelope and a petition form which the arrested person may use to request a hearing before the director to contest the revocation. The petition form shall clearly state on its face that the petition must be completed and delivered to the Department of Motor Vehicles information prepared and approved by the director describing how to request an administrative license revocation hearing or apply for an ignition interlock permit from the department. A petition for an administrative license revocation hearing must be completed and delivered to the department or postmarked within ten days after receipt the person's arrest or the person's right to a an administrative license revocation hearing to contest the revocation will be foreclosed. The director shall prepare and approve the information form, the application for an ignition interlock permit, for the petition, the addressed envelope, and the notice of revocation and shall provide them to law enforcement agencies.

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

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

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

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

(6) (a) An arrested person's operator's license confiscated pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of thirty fifteen days after the date of arrest, and the petition requesting the hearing shall be completed and delivered to the department or postmarked within ten days after the person's arrest. An arrested person's operator's license confiscated pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of thirty fifteen days after the date of mailing of the notice of revocation by the director, and the - The arrested person shall postmark or return to the director a petition within ten days after the ~~receipt~~ mailing of the notice of revocation if the arrested person desires a an administrative license revocation hearing. The

petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing and any prehearing conference may be conducted in person or by telephone, television, or other electronic means at the discretion of the director, and all parties may participate by such means at the discretion of the director.

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

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

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

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

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

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

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

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

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

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

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

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

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

(b) If such person submitted to a chemical test which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 and

has one or more prior administrative license revocations on which final orders have been issued during the immediately preceding fifteen-year period at the time the order of revocation is issued, the ignition interlock permit will be available beginning fifteen days after the date of arrest or the date notice of revocation was provided to the arrested person plus forty-five additional days of no driving, as long as he or she is otherwise eligible for an ignition interlock permit, upon completion of an application process for an ignition interlock permit;

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

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

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

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

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

60-498.02 (1) At the expiration of ~~thirty~~ fifteen days after the date of arrest as described in subsection (2) of section 60-6,197 or if after a hearing pursuant to section 60-498.01 the director finds that the operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) revoke the operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196 for a period of ~~ninety one hundred eighty~~ ninety one hundred eighty days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding ~~twelve-year~~ fifteen-year period at the time the order of revocation is issued, in which case the period of revocation shall be one year. Except as otherwise provided in section 60-6,211.05, a new operator's license shall not be issued to such person until the period of revocation has elapsed. If the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the order of revocation to the person's state of residence.

~~(2)(a) At the expiration of thirty days after an order of revocation is entered under subdivision (1)(b) of this section, any person whose~~

operator's license has been administratively revoked for a period of ninety days for submitting to a chemical test pursuant to section 60-6,197 which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 may make application to the director for issuance of an employment driving permit pursuant to section 60-4,130.

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

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

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

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

(d) (2) A person operating a motor vehicle pursuant to this subsection under an ignition interlock permit issued pursuant to sections 60-498.01 to 60-498.04 who has no previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous administrative license revocation shall only operate the motor vehicle to and from his or her residence, for purposes of his or her place of employment, his or her school, an alcohol a substance abuse treatment program, his or her parole or probation officer, his or her continuing health care or the continuing health care of another person who is dependent upon the person, his or her court-ordered community service responsibilities, or an ignition interlock service facility. A person operating a motor vehicle under an ignition interlock permit issued pursuant to sections 60-498.01 to 60-498.04 who has a previous conviction under section 60-6,196, 60-6,197, or 60-6,197.06 or a previous administrative license revocation shall only operate the motor vehicle to and from his or her residence for purposes of his or her employment, his or her school, or a substance abuse treatment program. Such permit shall indicate for which purposes the permit may be used. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

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

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

(i) Within the thirty-day period following the date of arrest, the The prosecuting attorney responsible for the matter declined to file a

complaint alleging a violation of section 60-6,196; and notified the director by first-class mail or facsimile transmission of such decision and the director received such notice within such period or the notice was postmarked within such period; or

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

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

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

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

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

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

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

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

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

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

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

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

60-4,115 (1) Fees for operators' licenses and state identification cards shall be collected and distributed according to the table in subsection (2) of this section, except for the ignition interlock permit and associated fees as outlined in subsection (4) of this section. County officials shall remit the county portion of the fees collected to the county treasurer for placement in the county general fund. All other fees collected shall be remitted to the State Treasurer for credit to the appropriate fund. The State Treasurer shall transfer an amount equal to three dollars and fifty cents times the number of original or renewal Class M licenses issued pursuant

to section 60-4,127 during the previous year from the Department of Motor Vehicles Cash Fund to the Motorcycle Safety Education Fund.

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

Document	Total Fee	Department			
		County General Fund	of Motor Vehicles Cash Fund	State General Fund	
State identification card:					
Valid for 1 year or less		5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years		10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years		14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years		19.00	2.75	8.00	8.25
Valid for more than 4 years for person under 21		24.00	2.75	10.25	11.00
Valid for 5 years		24.00	3.50	10.25	10.25
Duplicate or replacement		11.00	2.75	6.00	2.25
Class O or M operator's license:					
Valid for 1 year or less		5.00	2.75	1.25	1.00
Valid for more than 1 year but not more than 2 years		10.00	2.75	4.00	3.25
Valid for more than 2 years but not more than 3 years		14.00	2.75	5.25	6.00
Valid for more than 3 years but not more than 4 years		19.00	2.75	8.00	8.25
Valid for 5 years		24.00	3.50	10.25	10.25
Bioptic or telescopic lens restriction:					
Valid for 1 year or less		5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years		10.00	2.75	4.00	3.25
Duplicate or replacement		11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction		5.00	0	5.00	0
Provisional operator's permit:					
Original		15.00	2.75	12.25	0
Bioptic or telescopic lens restriction:					

Valid for 1 year or less	5.00	0	5.00	0
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25	0
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPD-learner's permit:				
Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
LPE-learner's permit:				
Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
School permit:				
Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Farm permit:				
Original or renewal	5.00	.25	0	4.75
Duplicate or replacement	5.00	.25	0	4.75
Temporary	5.00	.25	0	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Driving permits:				
Employment	45.00	0	5.00	40.00
Medical hardship	45.00	0	5.00	40.00
Duplicate or replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0
Commercial driver's license:				
Valid for 1 year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year but not more than 2 years	22.00	1.75	5.00	15.25
Valid for more than 2 years				

but not more than 3 years	33.00	1.75	5.00	26.25
Valid for more than 3 years				
but not more than 4 years	44.00	1.75	5.00	37.25
Valid for 5 years	55.00	1.75	5.00	48.25
Bioptic or telescopic lens restriction:				
Valid for one year or less	11.00	1.75	5.00	4.25
Valid for more than 1 year				
but not more than 2 years	22.00	1.75	5.00	15.25
Duplicate or replacement	11.00	2.75	6.00	2.25
Add, change, or remove class, endorsement, or restriction	10.00	1.75	5.00	3.25
LPC-learner's permit:				
Original or renewal	10.00	.25	5.00	4.75
Duplicate or replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
Seasonal permit:				
Original or renewal	10.00	.25	5.00	4.75
Duplicate or replacement	10.00	.25	5.00	4.75
Add, change, or remove class, endorsement, or restriction	10.00	.25	5.00	4.75
School bus permit:				
Original or renewal	5.00	0	5.00	0
Duplicate or replacement	5.00	0	5.00	0
Add, change, or remove class, endorsement, or restriction	5.00	0	5.00	0

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

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

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

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

(5) This subsection applies beginning on the implementation date designated by the director pursuant to section 60-462.02. The department and its agents may collect an identity security surcharge to cover the cost of

security and technology practices used to protect the identity of applicants for and holders of operators' licenses and state identification cards and to reduce identity theft, fraud, and forgery and counterfeiting of such licenses and cards to the maximum extent possible. The surcharge shall be in addition to all other required fees for operators' licenses and state identification cards. The amount of the surcharge shall be determined by the department. The surcharge shall not exceed eight dollars. The surcharge shall be remitted to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

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

60-4,118.06 (1) Upon receipt by the director of (a) a certified copy of a court order issued pursuant to section 60-6,211.05, a certified copy of an order for installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to ~~subdivision (1), (2), or (3)~~ of section 60-6,197.03, or a copy of an order from the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient evidence that the person has surrendered his or her operator's license to the ~~Department of Motor Vehicles~~ department and installed an approved ignition interlock device in accordance with such order, and (c) payment of the fee provided in section 60-4,115, such person may apply for an ignition interlock permit. A person subject to administrative license revocation under ~~section 60-498.02~~ sections 60-498.01 to 60-498.04 shall be eligible for an ignition interlock permit as provided in such ~~section.~~ sections. The director shall issue an ignition interlock permit for the operation of a motor vehicle equipped with an ignition interlock device. Any person issued an ignition interlock permit pursuant to a court order who has no previous convictions under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous administrative license revocation shall only operate the motor vehicle equipped with an ignition interlock device to and from his or her residence, for purposes of his or her place of employment, his or her school, an alcohol a substance abuse treatment program, his or her parole or probation officer, his or her continuing health care or the continuing health care of another person who is dependent upon the person, his or her court-ordered community service responsibilities, or an ignition interlock service facility. Any person issued an ignition interlock permit pursuant to a court order who has a previous conviction under section 60-6,196, 60-6,197, or 60-6,197.06 and no previous administrative license revocation shall only operate the motor vehicle to and from his or her residence for purposes of his or her employment, his or her school, or a substance abuse treatment program. The permit shall indicate for which purposes the permit may be used. All permits issued pursuant to this subsection shall indicate that the permit is not valid for the operation of any commercial motor vehicle.

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

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

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

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

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

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

60-4,129 (1) Any individual person whose operator's license is revoked under section ~~60-498.02,~~ 60-4,183, or 60-4,186 or suspended under section 43-3318 shall be eligible to operate any motor vehicle, except a commercial motor vehicle, in this state under an employment driving permit. An

employment driving permit issued due to a revocation under section ~~60-498.02,~~ 60-4,183~~7~~ or 60-4,186 is valid for the period of revocation. An employment driving permit issued due to a suspension of an operator's license under section 43-3318 is valid for no more than three months and cannot be renewed. An employment driving permit shall not be issued to any person subject to an administrative license revocation who submitted to a chemical test pursuant to section ~~60-6,197~~ which disclosed the presence of a concentration of alcohol in violation of section ~~60-6,196~~ if the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding twelve-year period at the time the order of revocation is issued.

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

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

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

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

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

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

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

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

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

(5) Any person operating or in the actual physical control of a commercial motor vehicle who refuses to submit to a chemical test or tests of

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

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

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

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

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

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

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

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

(4) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test or tests of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection

(3) of this section and ~~section 60-498.02~~ sections 60-498.01 to 60-498.04 upon return.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A person arrested for a violation of section 60-6,196 or

60-6,197 before ~~May 14, 2009~~, the operative date of this act but sentenced pursuant to section 60-6,197.03 for such violation on or after ~~May 14, 2009~~, the operative date of this act shall be sentenced according to the provisions of section 60-6,197.03 in effect on the date of arrest.

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

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

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

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

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

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

(3) Except as provided in subdivision (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of one year from the date ordered by the court. The revocation order shall require that the person not drive for a period of ~~sixty~~ forty-five days, after which the court ~~may~~ shall order that the person apply for an ignition interlock permit for the remainder of the revocation period and have an

ignition interlock device installed on any motor vehicle he or she owns or operates during the remainder of the revocation period and shall issue an order pursuant to subdivision (1)(b) of section 60-6,197.01. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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

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

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

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

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

(6) If such person has had two prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath or refused to submit to a test as required under section 60-6,197, such person shall be guilty of a Class IIIA

felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

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

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

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

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

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

device and abstention from alcohol use at all times for no less than one hundred twenty days;

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

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

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

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

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

60-6,197.05 Any period of revocation imposed by the court for a violation of section 60-6,196 or 60-6,197 shall be reduced by any period of revocation imposed under sections 60-498.01 to 60-498.04, including any period during which a person has a valid ignition interlock permit, arising from the same incident.~~section 60-498.02. Any period of revocation imposed under subdivision (1) of section 60-6,197.03 for a violation of section 60-6,196 or 60-6,197 or under subdivision (2)(a) of section 60-6,196, as such section existed prior to July 16, 2004, shall not prohibit the operation of a motor vehicle under the terms and conditions of an employment driving permit issued pursuant to subsection (2) of section 60-498.02.~~

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

60-6,197.09 Notwithstanding the provisions of section ~~60-498.02 or~~ 60-6,197.03, a person who commits a violation punishable under subdivision (3)(b) or (c) of section 28-306 or subdivision (3)(b) or (c) of section 28-394 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while participating in criminal proceedings for a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance enacted in accordance with section

60-6,196 or 60-6,197, or a law of another state if, at the time of the violation under the law of such other state, the offense for which the person was charged would have been a violation of section 60-6,197, shall not be eligible to receive a sentence of probation, or a suspended sentence, or an employment driving permit authorized under subsection (2) of section 60-498.02 for either violation committed in this state.

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

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

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

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

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

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

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

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

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

(2) If the court orders installation of an ignition interlock device and issuance of an ignition interlock permit pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device

shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

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

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

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

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

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

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

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

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

~~(9) (8)(a) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid directly to the ignition interlock provider by the person complying with an order for an ignition~~

interlock permit and installation of an ignition interlock device, ~~unless~~

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

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

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

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

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

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

Sec. 41. (1) Any person who tampers with or circumvents an ignition interlock device installed under a court order or Department of Motor Vehicles order while the order is in effect or who operates a motor vehicle which is not equipped with an ignition interlock device in violation of a court order or Department of Motor Vehicles order shall be guilty of a Class IV felony.

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

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

Sec. 43. Original sections 28-306, 28-394, 29-215, 29-1917, 37-1238.01, 37-1254.01, 37-1254.02, 37-1254.03, 37-1254.05, 37-1254.07, 37-1254.08, 37-1295, 53-180, 53-180.05, 60-497.01, 60-498.01, 60-498.02, 60-498.03, 60-498.04, 60-4,115, 60-4,118.06, 60-4,129, 60-4,164, 60-601, 60-6,197, 60-6,197.02, 60-6,197.03, 60-6,197.05, 60-6,197.09, 60-6,198, and 60-6,211.05, Reissue Revised Statutes of Nebraska, and sections 28-101,

29-2259.01, and 37-1201, Revised Statutes Cumulative Supplement, 2010, are repealed.