

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 260

Introduced By: Kruse, 13; Burling, 33; Christensen, 44; Friend,
10; Kopplin, 3; McDonald, 41; Pahls, 31; Stuthman,
22; Wallman, 30

Read first time: January 10, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Rules of the Road; to amend
2 section 60-6,197.03, Revised Statutes Cumulative Supplement,
3 2006; to change penalty provisions for violating implied
4 consent to chemical test provisions relating to driving
5 under the influence of alcohol or drugs; and to repeal the
6 original section.

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

1 Section 1. Section 60-6,197.03, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 60-6,197.03. Any person convicted of a violation of section
4 60-6,196 or 60-6,197 shall be punished as follows:

5 (1) Except as provided in subdivision (2) of this section,
6 if such person has not had a prior conviction, such person shall be
7 guilty of a Class W misdemeanor, and the court shall, as part of the
8 judgment of conviction, order that the operator's license of such
9 person be revoked or impounded for a period of six months from the
10 date ordered by the court. Such revocation or impoundment shall be
11 administered upon sentencing, upon final judgment of any appeal or
12 review, or upon the date that any probation is revoked.

13 If the court places such person on probation or suspends the
14 sentence for any reason, the court shall, as one of the conditions of
15 probation or sentence suspension, order that the operator's license of
16 such person be revoked or impounded for a period of sixty days from
17 the date ordered by the court unless otherwise authorized by an order
18 issued pursuant to section 60-6,211.05, and such order of probation or
19 sentence suspension shall also include, as one of its conditions, the
20 payment of a four-hundred-dollar fine;

21 (2) If such person has not had a prior conviction and, as
22 part of the current violation, had a concentration of
23 fifteen-hundredths of one gram or more by weight of alcohol per one
24 hundred milliliters of his or her blood or fifteen-hundredths of one
25 gram or more by weight of alcohol per two hundred ten liters of his or
26 her breath or refused to submit to a test as required under section
27 60-6,197, such person shall be guilty of a Class W misdemeanor, and

1 the court shall, as part of the judgment of conviction, revoke the
2 operator's license of such person for a period of one year from the
3 date ordered by the court. Such revocation shall be administered upon
4 sentencing, upon final judgment of any appeal or review, or upon the
5 date that any probation is revoked.

6 If the court places such person on probation or suspends the
7 sentence for any reason, the court shall, as one of the conditions of
8 probation or sentence suspension, order that the operator's license of
9 such person be revoked or impounded for a period of one year from the
10 date ordered by the court unless otherwise authorized by an order
11 issued pursuant to section 60-6,211.05, and such order of probation or
12 sentence suspension shall also include, as conditions, the payment of
13 a five-hundred-dollar fine and either confinement in the city or
14 county jail for two days or the imposition of not less than one
15 hundred twenty hours of community service;

16 (3) Except as provided in subdivision (5) of this section,
17 if such person has had one prior conviction, such person shall be
18 guilty of a Class W misdemeanor, and the court shall, as part of the
19 judgment of conviction, order that the operator's license of such
20 person be revoked for a period of one year from the date ordered by
21 the court and shall issue an order pursuant to section 60-6,197.01.
22 Such orders shall be administered upon sentencing, upon final judgment
23 of any appeal or review, or upon the date that any probation is
24 revoked.

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

1 such person be revoked or impounded for a period of one year from the
2 date ordered by the court unless otherwise authorized by an order
3 issued pursuant to section 60-6,211.05 and shall issue an order
4 pursuant to section 60-6,197.01, and such order of probation or
5 sentence suspension shall also include, as conditions, the payment of
6 a five-hundred-dollar fine and either confinement in the city or
7 county jail for ten days or the imposition of not less than two
8 hundred forty hours of community service;

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

18 If the court places such person on probation or suspends the
19 sentence for any reason, the court shall, as one of the conditions of
20 probation or sentence suspension, order that the operator's license of
21 such person be revoked for a period of at least two years but not more
22 than fifteen years from the date ordered by the court unless otherwise
23 authorized by an order issued pursuant to section 60-6,211.05 and
24 shall issue an order pursuant to section 60-6,197.01, and such order
25 of probation or sentence suspension shall also include, as conditions,
26 the payment of a six-hundred-dollar fine and confinement in the city
27 or county jail for thirty days;

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

17 If the court places such person on probation or suspends the
18 sentence for any reason, the court shall, as one of the conditions of
19 probation or sentence suspension, order that the operator's license of
20 such person be revoked or impounded for a period of at least one year
21 but not more than fifteen years from the date ordered by the court
22 unless otherwise authorized by an order issued pursuant to section
23 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01,
24 and such order of probation or sentence suspension shall also include,
25 as conditions, the payment of a one-thousand-dollar fine and
26 confinement in the city or county jail for thirty days;

27 (6) If such person has had two prior convictions and, as

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

15 If the court places such person on probation or suspends the
16 sentence for any reason, the court shall, as one of the conditions of
17 probation or sentence suspension, order that the operator's license of
18 such person be revoked for a period of at least five years but not
19 more than fifteen years from the date ordered by the court unless
20 otherwise authorized by an order issued pursuant to section
21 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01,
22 and such order of probation or sentence suspension shall also include,
23 as conditions, the payment of a one-thousand-dollar fine and
24 confinement in the city or county jail for sixty days;

25 (7) Except as provided in subdivision (8) of this section,
26 if such person has had three prior convictions, such person shall be
27 guilty of a Class IIIA felony, and the court shall, as part of the

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

9 If the court places such person on probation or suspends the
10 sentence for any reason, the court shall, as one of the conditions of
11 probation or sentence suspension, order that the operator's license of
12 such person be revoked for a period of fifteen years from the date
13 ordered by the court unless otherwise authorized by an order issued
14 pursuant to section 60-6,211.05 and shall issue an order pursuant to
15 section 60-6,197.01, and such order of probation or sentence
16 suspension shall also include, as conditions, the payment of a
17 one-thousand-dollar fine and confinement in the city or county jail
18 for ninety days;

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

1 the date ordered by the court and shall issue an order pursuant to
2 section 60-6,197.01. Such revocation and order shall be administered
3 upon sentencing, upon final judgment of any appeal or review, or upon
4 the date that any probation is revoked.

5 If the court places such person on probation or suspends the
6 sentence for any reason, the court shall, as one of the conditions of
7 probation or sentence suspension, order that the operator's license of
8 such person be revoked for a period of fifteen years from the date
9 ordered by the court unless otherwise authorized by an order issued
10 pursuant to section 60-6,211.05 and shall issue an order pursuant to
11 section 60-6,197.01, and such order of probation or sentence
12 suspension shall also include, as conditions, the payment of a
13 one-thousand-dollar fine and confinement in the city or county jail
14 for one hundred twenty days;

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

24 If the court places such person on probation or suspends the
25 sentence for any reason, the court shall, as one of the conditions of
26 probation or sentence suspension, order that the operator's license of
27 such person be revoked for a period of fifteen years from the date

1 ordered by the court unless otherwise authorized by an order issued
2 pursuant to section 60-6,211.05 and shall issue an order pursuant to
3 section 60-6,197.01, and such order of probation or sentence
4 suspension shall also include, as conditions, the payment of a
5 one-thousand-dollar fine and confinement in the city or county jail
6 for one hundred eighty days; and

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

20 If the court places such person on probation or suspends the
21 sentence for any reason, the court shall, as one of the conditions of
22 probation or sentence suspension, order that the operator's license of
23 such person be revoked for a period of fifteen years from the date
24 ordered by the court unless otherwise authorized by an order issued
25 pursuant to section 60-6,211.05 and shall issue an order pursuant to
26 section 60-6,197.01, and such order of probation or sentence
27 suspension shall also include, as conditions, the payment of a

1 one-thousand-dollar fine and confinement in the city or county jail
2 for one hundred eighty days.

3 Sec. 2. Original section 60-6,197.03, Revised Statutes
4 Cumulative Supplement, 2006, is repealed.