

## LEGISLATIVE BILL 736

Approved by the Governor April 16, 2008

Introduced by Fulton, 29.

FOR AN ACT relating to motor vehicle operators' licenses; to amend sections 60-498.02, 60-4,118.06, and 60-6,209, Reissue Revised Statutes of Nebraska, sections 60-480, 60-497.01, 60-4,115, 60-601, 60-6,197.01, 60-6,211.05, and 83-1,127.02, Revised Statutes Cumulative Supplement, 2006, and section 60-6,197.03, Revised Statutes Supplement, 2007; to provide for an ignition interlock permit; to change penalty provisions relating to driving under the influence; to change provisions relating to installation and use of an ignition interlock device; to provide fees for permits; to create a fund; 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 60-480, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-480 Operators' licenses issued by the Department of Motor Vehicles pursuant to the Motor Vehicle Operator's License Act shall be classified as follows:

(1) Class O license. The operator's license which authorizes the person to whom it is issued to operate on highways any motor vehicle except a commercial motor vehicle or motorcycle;

(2) Class M license. The operator's license or endorsement on a Class O license, provisional operator's permit, learner's permit, school permit, or commercial driver's license which authorizes the person to whom it is issued to operate a motorcycle on highways;

(3) CDL-commercial driver's license. The operator's license which authorizes the person to whom it is issued to operate a class of commercial motor vehicles or any motor vehicle, except a motorcycle, on highways;

(4) RCDL-restricted commercial driver's license. The class of commercial driver's license which, when held with an annual seasonal permit, authorizes a seasonal commercial motor vehicle operator as defined in section 60-4,146.01 to operate any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle for purposes of a farm-related or ranch-related service industry as defined in such section within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served as provided in such section or any other motor vehicle, except a motorcycle, on highways;

(5) POP-provisional operator's permit. A motor vehicle operating permit with restrictions issued pursuant to section 60-4,120.01 to a person who is at least sixteen years of age but less than eighteen years of age which authorizes the person to operate any motor vehicle except a commercial motor vehicle or motorcycle;

(6) SCP-school permit. A permit issued to a student between fourteen years and two months of age and sixteen years of age for the purpose of driving in accordance with the requirements of section 60-4,124;

(7) FMP-farm permit. A permit issued to a person for purposes of operating farm tractors and other motorized implements of farm husbandry on highways in accordance with the requirements of section 60-4,126;

(8) LPC-learner's permit. A permit which when held in conjunction with a Class O license or commercial driver's license authorizes a person to operate a commercial motor vehicle for learning purposes when accompanied by a person who is at least twenty-one years of age;

(9) LPD-learner's permit. A permit issued in accordance with the requirements of section 60-4,123 to a person at least fifteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, for learning purposes when accompanied by a licensed operator who is at least twenty-one years of age and who possesses a valid operator's license issued by this state or another state;

(10) LPE-learner's permit. A permit issued to a person at least fourteen years of age which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, while learning to drive in preparation for application for a school permit;

(11) EDP-employment driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,129 and 60-4,130;

(12) IIP-ignition interlock permit. A permit issued to a person

which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, which is equipped with an ignition interlock device;

~~(12)~~ (13) SEP-seasonal permit. A permit issued to a person who holds a restricted commercial driver's license authorizing the person to operate a commercial motor vehicle, as prescribed by section 60-4,146.01, for no more than one hundred eighty consecutive days in any twelve-month period. The seasonal permit shall be valid and run from the date of original issuance of the permit for one hundred eighty days and from the date of annual revalidation of the permit; and

~~(13)~~ (14) MHP-medical hardship driving permit. A permit issued to a person which authorizes the person to operate a motor vehicle, except a commercial motor vehicle, pursuant to the requirements of sections 60-4,130.01 and 60-4,130.02.

Sec. 2. Section 60-497.01, Revised Statutes Cumulative Supplement, 2006, 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, or the Nebraska Rules of the Road, 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, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 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 the installation of 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. 3. Section 60-498.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-498.02 (1) At the expiration of thirty 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 of Motor Vehicles~~ 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 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 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) At the expiration of thirty days after an order of revocation is entered under subsection (1) of this section, ~~(a) 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. and (b) any person who submitted to a chemical test pursuant to section 60-6,197 and has his or her operator's license revoked for ninety days pursuant to subsection (1) of this section is eligible~~

for an order pursuant to section 60-6,211.05 to operate a motor vehicle equipped with an ignition interlock device upon presentation of sufficient evidence to the Department of Motor Vehicles that such a device is installed.

(3) (a) At the expiration of thirty days after an order of administrative license revocation for ninety days is entered under subsection (1) 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 of Motor Vehicles 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 subsection (1) 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 of Motor Vehicles that such a device is installed.

(c) A person operating a motor vehicle pursuant to this subsection shall only operate the motor vehicle from his or her residence to his or her place of employment, school, or alcohol treatment program or an ignition interlock service facility. 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) No This subsection shall not apply to nor shall any person shall be eligible for the benefit of this subsection an employment driving permit or an ignition interlock permit during any period of time during which his or her operator's license is subject to an administrative revocation order for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197. or is subject to a one-year revocation under subdivision (1)(b) of this section.

~~(3)~~ (5) 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.

~~(4)(a)~~ (6) (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 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.

(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 charge is filed for a violation of section 60-6,196 pursuant to an arrest for which all 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 may reinstate an administrative license revocation under this section as of the date that the director receives notification of the filing of the charge, except that a revocation shall not be reinstated if it was dismissed pursuant to section 60-498.01.

Sec. 4. Section 60-4,115, Revised Statutes Cumulative Supplement, 2006, 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	Department			
	Total	County	of Motor	State
	Fee	Fund	Cash Fund	General Fund
State identification card:				
Valid for 1 year or less	4.75		2.75	1.00
Valid for more than 1 year but not more than 2 years	9.50		2.75	3.50
Valid for more than 2 years but not more than 3 years	14.25		2.75	5.50
Valid for more than 3 years but not more than 4 years	19.00		2.75	8.00
Valid for more than 4 years for person under 21	23.75		2.75	10.00
Valid for 5 years	23.75		3.50	10.00
Duplicate or replacement	11.25		2.75	6.25
Class O or M operator's license:				
Valid for 1 year or less	4.75		2.75	1.00
Valid for more than 1 year but not more than 2 years	9.50		2.75	3.50
Valid for more than 2 years but not more than 3 years	14.25		2.75	5.50
Valid for more than 3 years but not more than 4 years	19.00		2.75	8.00
Valid for 5 years	23.75		3.50	10.00
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	4.75		0	4.75
Valid for more than 1 year but not more than 2 years	9.50		2.75	3.50
Duplicate or replacement	11.25		2.75	6.25
Change of class or restriction	5.00		0	5.00
Provisional operator's permit:				

Original	15.00	2.75	12.25	0
Bioptic or telescopic lens restriction:				
Valid for 1 year or less	4.75	0	4.75	0
Valid for more than 1 year but not more than 2 years	15.00	2.75	12.25	0
Duplicate or replacement	11.25	2.75	6.25	2.25
LPD-learner's permit:				
Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.25	2.75	6.25	2.25
LPE-learner's permit:				
Original	8.00	.25	5.00	2.75
Duplicate or replacement	11.25	2.75	6.25	2.25
School permit:				
Original	8.00	.25	5.00	2.75
Duplicate	11.25	2.75	6.25	2.25
Farm permit:				
Original or renewal	5.00	.25	0	4.75
Duplicate	5.00	.25	0	4.75
Temporary	5.00	.25	0	4.75
Driving permits:				
Employment	45.00	0	5.00	40.00
Medical hardship	45.00	0	5.00	40.00
<u>Duplicate or replacement</u>	<u>10.00</u>	<u>.25</u>	<u>5.00</u>	<u>4.75</u>
<u>Add, change, or remove class, endorsement, or restriction</u>	<u>5.00</u>	<u>0</u>	<u>5.00</u>	<u>0</u>
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	11.25	2.75	6.25	2.25
Change of 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
Change of 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
Change of class, endorsement, or restriction	10.00	.25	5.00	4.75

(3) If the Department of Motor Vehicles 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 Ignition Interlock Device Fund.

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

Sec. 5. 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) or (2) 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 and installed an approved ignition interlock device in accordance with such court order, and (c) payment of the fee provided in section 60-4,115, such person may apply for reinstatement of his or her eligibility for an operator's license following the passage of thirty days of the ninety-day revocation period an ignition interlock permit. A person subject to administrative license revocation under section 60-498.02 and the shall be eligible for an ignition interlock permit as provided in such section. The director shall issue to such person a Class 0 license restricted to an ignition interlock permit for the operation of a motor vehicle equipped with an ignition

interlock device. 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. The department shall not issue such a license an ignition interlock permit to any person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 until at least one year of the operator's license revocation has elapsed.

(2) Upon expiration of the court order issued pursuant to section ~~60-6,211.05~~ 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, which does not contain such restriction. 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.

Sec. 6. Section 60-601, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-601 Sections 60-601 to 60-6,377 and section 11 of this act shall be known and may be cited as the Nebraska Rules of the Road.

Sec. 7. Section 60-6,197.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-6,197.01 (1) Upon conviction for a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions: ~~on all motor vehicles owned by the person so convicted.~~

(a) (i) The court shall order ~~the motor vehicle or~~ all motor vehicles owned by the person so convicted immobilized at the owner's expense for a period of time not less than five days and not more than eight months and shall notify the Department of Motor Vehicles of the period of immobilization. Any immobilized motor vehicle shall be released to the holder of a bona fide lien on the motor vehicle executed prior to such immobilization when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying such lien. If a person tows and stores a motor vehicle pursuant to this subdivision at the direction of a peace officer or the court and has a lien upon such motor vehicle while it is in his or her possession for reasonable towing and storage charges, the person towing the vehicle has the right to retain such motor vehicle until such lien is paid. For purposes of this subdivision, immobilized or immobilization means revocation or suspension, at the discretion of the court, of the registration of such motor vehicle or motor vehicles, including the license plates; and

(ii) (A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

(B) A registered owner who executes an affidavit pursuant to subdivision (1)(a)(ii)(A) of this section which is acted upon by the court and who fails to immediately report an unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and may not file any additional affidavits pursuant to subdivision (1)(a)(ii)(A) of this section.

(C) The department shall adopt and promulgate rules and regulations to implement the provisions of subdivision (1)(a) of this section; or

(b) As an alternative to subdivision (1)(a) of this section, the court shall order the installation of convicted person, in order to operate a motor vehicle, to obtain an ignition interlock permit and install an ignition interlock device on each of the owner's motor vehicles owned or operated by the convicted person if the owner he or she was sentenced to an operator's license revocation of at least one year and has completed at least one year of such revocation. No license reinstatement may occur ignition interlock permit may be issued until sufficient evidence is presented to the department that an

ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. The installation of an ignition interlock device shall be for a period not less than six months commencing upon the end of such year of the operator's license revocation. Notwithstanding any other provision of law, if the owner was convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, no ignition interlock device or ignition interlock permit shall be ordered by any court or state agency under any circumstances until at least one year of the operator's license revocation shall have elapsed.

(2) In addition to the restrictions required by subdivision (1)(b) of this section, the court may require a person convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 to use a continuous alcohol monitoring device and abstain from alcohol use for a period of time not to exceed the maximum term of license revocation ordered by the court. A continuous alcohol monitoring device shall not be ordered for a person convicted of a second or subsequent violation unless the installation of an ignition interlock device is also required.

Sec. 8. Section 60-6,197.03, Revised Statutes Supplement, 2007, 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 and the court shall order that after thirty days of no driving, the person may apply for an ignition interlock permit for the remainder of the revocation period and shall 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 ~~or impounded~~ for a period of sixty days from the date ordered by the court unless otherwise authorized by an order for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05, and 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 and shall order that after sixty days of no driving, the person may apply for an ignition interlock permit for the remainder of the revocation period and shall 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 ~~or impounded~~ for a period of one year from the date ordered by the court unless otherwise authorized by an order for an ignition interlock permit and installation of an ignition interlock device issued pursuant to section 60-6,211.05, and 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 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 ~~or impounded~~ for a period of one year from the date ordered by the court unless otherwise authorized by an order 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 section 60-6,197.01, and 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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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 ~~or impounded~~ for a period of at least one year but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order 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 section 60-6,197.01, and 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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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;

(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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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;

(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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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;

(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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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

(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 unless otherwise authorized by an order 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 section 60-6,197.01, and 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.

Sec. 9. Section 60-6,209, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,209 (1) Any person whose operator's license has been revoked pursuant to a conviction for a violation of sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years may apply to the Department of Motor Vehicles, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her eligibility for an operator's license. Upon receipt of the application, the Director of Motor Vehicles shall review the application if such person has served at least seven years of such revocation and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following:

(a) Such person has completed a state-certified substance abuse program and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

(c) Such person has not been convicted, since the date of the revocation order, of driving while under suspension, revocation, or impoundment under section 60-4,109;

(d) Such person has abstained from the consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription; and

(e) Such person's operator's license is not currently subject to suspension or revocation for any other reason.

(2) In addition, the department may require other evidence from such person to show that restoring such person's privilege to drive will not present a danger to the health and safety of other persons using the highways.

(3) Upon review of the application, the director shall make the recommendation to the Board of Pardons in writing and shall briefly state the reasons for the recommendations. The recommendation shall include the original application and other evidence submitted by such person. The recommendation shall also include any record of any other applications such person has previously filed under this section.

(4) The department shall adopt and promulgate rules and regulations to govern the procedures for making a recommendation to the Board of Pardons. Such rules and regulations shall include the requirement that the treatment programs and counselors who provide information about such person to the department must be certified or licensed by the state.

(5) If the Board of Pardons reinstates such person's eligibility for an operator's license or orders a reprieve of such person's motor vehicle operator's license revocation, such reinstatement or reprieve may be conditioned for the duration of the original revocation period on such

person's continued recovery. If such person is convicted of any subsequent violation of section 60-6,196 or 60-6,197, the reinstatement of the person's eligibility for an operator's license shall be withdrawn and such person's operator's license will be revoked by the Department of Motor Vehicles for the time remaining under the original revocation, independent of any sentence imposed by the court, after thirty days' written notice to the person by first-class mail at his or her last-known mailing address as shown by the records of the department.

(6) If the Board of Pardons reinstates a person's eligibility for an operator's license or orders a reprieve of such person's motor vehicle operator's license revocation, the board shall notify the Department of Motor Vehicles of the reinstatement or reprieve. Such person may apply for an operator's license upon payment of a fee of one hundred twenty-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit seventy-five dollars of each fee to the General Fund and fifty dollars of each fee to the Department of Motor Vehicles Cash Fund.

Sec. 10. Section 60-6,211.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-6,211.05 ~~(1)~~ (1)(a) If an order of probation 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 the defendant to install an ignition interlock device of a type approved by the Director of Motor Vehicles 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 the levels prescribed in section 60-6,196.

(b) If the court orders an ignition interlock permit and installation of an ignition interlock device pursuant to subdivision (1) or (2) of 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 the levels prescribed in section 60-6,196.

(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 ~~(2)~~ (3) of section 60-498.02.

(4) 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 Department of Motor Vehicles to issue to the defendant a ~~restricted Class G license~~ 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. 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 of an ignition-interlock-equipped motor vehicle only from the defendant's residence to the defendant's place of employment, school, or alcohol treatment program or an ignition interlock service facility. 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 license reinstatement 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 or 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 shall be guilty of a Class II misdemeanor.

(6) 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) 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 ~~Class 0 license~~ ignition interlock permit revoked and be unable to apply for ~~license~~ reinstatement for the duration of the revocation period imposed by the court.

(8) The director shall adopt and promulgate rules and regulations to approve ignition interlock devices and the means of installation of the devices.

(9) The costs incurred in order to comply with the ignition interlock requirements of this section shall be paid by the person complying with an order for an ignition interlock permit and installation of an ignition interlock device pursuant to section 60-6,211.05 or 83-1,127.02 unless the court or the Board of Pardons has determined the person to be indigent.

Sec. 11. The Ignition Interlock Device Fund is created. The Office of Probation Administration shall use the money in the fund for the costs of installing and removing and one-half of the cost of maintaining an ignition interlock device for an indigent defendant. The Office of Probation Administration shall use no more than five percent of the fund revenue in each fiscal year for purposes of administering the fund. 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.

Sec. 12. Section 83-1,127.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-1,127.02 (1) The Board of Pardons may, in its sole discretion, when granting a ~~license reinstatement~~ reprieve to any person who has made application pursuant to section 60-6,209, order such person to obtain an ignition interlock permit and to operate only motor vehicles equipped with an ignition interlock device approved by the Director of Motor Vehicles. The Board of Pardons may order the person to hold the ignition interlock permit and use of such a an ignition interlock device for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(2) Any person ordered by the Board of Pardons to operate only motor vehicles equipped with such an ignition interlock device shall make application to the director for the issuance of a ~~Class 0 operator's license restricted to the operation of a motor vehicle equipped with such an ignition interlock device.~~ an ignition interlock permit pursuant to section 60-4,118.06.

(3) Any such person restricted to operating a motor vehicle equipped with such an ignition interlock device who operates upon the highways of this state a motor vehicle without such an ignition interlock device, or who operates a motor vehicle equipped with such an ignition interlock device which has been disabled, bypassed, or altered in any way, or who operates a motor vehicle equipped with such an ignition interlock device without obtaining an ignition interlock permit, is guilty of a Class IV felony. The court shall, as a part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of fifteen years from the date ordered by the court. The court shall also order that the operator's license of such person be revoked for a like period. The revocation shall be administered upon sentencing, upon the final judgment of any appeal or review, or upon the date that any probation is revoked.

Sec. 13. This act becomes operative on January 1, 2009.

Sec. 14. Original sections 60-498.02, 60-4,118.06, and 60-6,209, Reissue Revised Statutes of Nebraska, sections 60-480, 60-497.01, 60-4,115, 60-601, 60-6,197.01, 60-6,211.05, and 83-1,127.02, Revised Statutes Cumulative Supplement, 2006, and section 60-6,197.03, Revised Statutes Supplement, 2007, are repealed.