

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 497

FINAL READING

Introduced by Fulton, 29.

Read first time January 20, 2009

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to driving under the influence; to amend
2 sections 29-2259.01 and 60-6,197.05, Reissue Revised
3 Statutes of Nebraska, and sections 60-498.02, 60-4,115,
4 60-4,118.06, 60-6,197.01, 60-6,197.02, 60-6,197.03,
5 60-6,197.06, and 60-6,211.05, Revised Statutes Cumulative
6 Supplement, 2008; to change provisions relating to
7 employment driving permits and ignition interlock
8 devices; to change and provide penalties relating to
9 ignition interlock devices; to provide for the payment
10 of installation, removal, or maintenance costs of such
11 devices for certain persons as prescribed; to change
12 provisions relating to operating a motor vehicle under
13 a revoked license; to eliminate a fund; to harmonize

1 provisions; to repeal the original sections; to outright
2 repeal section 60-6,211.10, Revised Statutes Cumulative
3 Supplement, 2008; and to declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2259.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

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

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

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

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

24 (4) Any money in the fund available for investment
25 shall be invested by the state investment officer pursuant to

1 the Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act.

3 (5) The State Treasurer shall transfer any money in the
4 Ignition Interlock Device Fund on the effective date of this act to
5 the Probation Cash Fund.

6 Sec. 2. Section 60-498.02, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 60-498.02 (1) At the expiration of thirty days after the
9 date of arrest as described in subsection (2) of section 60-6,197
10 or if after a hearing pursuant to section 60-498.01 the director
11 finds that the operator's license should be revoked, the director
12 shall (a) revoke the operator's license of a person arrested for
13 refusal to submit to a chemical test of blood, breath, or urine
14 as required by section 60-6,197 for a period of one year and
15 (b) revoke the operator's license of a person who submits to a
16 chemical test pursuant to such section which discloses the presence
17 of a concentration of alcohol specified in section 60-6,196 for a
18 period of ninety days unless the person's driving record abstract
19 maintained in the department's computerized records shows one or
20 more prior administrative license revocations on which final orders
21 have been issued during the immediately preceding twelve-year
22 period at the time the order of revocation is issued, in which case
23 the period of revocation shall be one year. Except as otherwise
24 provided in section 60-6,211.05, a new operator's license shall
25 not be issued to such person until the period of revocation has

1 elapsed. If the person subject to the revocation is a nonresident
2 of this state, the director shall revoke only the nonresident's
3 operating privilege as defined in section 60-474 of such person and
4 shall immediately forward the operator's license and a statement of
5 the order of revocation to the person's state of residence.

6 ~~(2)~~ (2) (a) At the expiration of thirty days after an
7 order of revocation is entered under ~~subsection (1)~~ subdivision
8 (1) (b) of this section, any person whose operator's license has
9 been administratively revoked for a period of ninety days for
10 submitting to a chemical test pursuant to section 60-6,197 which
11 disclosed the presence of a concentration of alcohol in violation
12 of section 60-6,196 may make application to the director for
13 issuance of an employment driving permit pursuant to section
14 60-4,130.

15 (b) At the expiration of sixty days after an order of
16 revocation is entered under subdivision (1) (a) of this section, any
17 person whose operator's license has been administratively revoked
18 for refusal to submit to a chemical test pursuant to section
19 60-6,197, may make application to the director for issuance of
20 an employment driving permit pursuant to section 60-4,130 unless
21 the person's driving record abstract maintained in the department's
22 computerized records shows one or more prior administrative license
23 revocations on which final orders have been issued during the
24 immediately preceding twelve-year period at the time the order of
25 revocation is issued.

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

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

23 (c) At the expiration of sixty days after an order
24 of administrative license revocation is entered under subdivision
25 (1) (a) of this section, any person who refused to submit to a

1 chemical test pursuant to section 60-6,197 is eligible for an order
2 to allow application for an ignition interlock permit in order to
3 operate a motor vehicle equipped with an ignition interlock device
4 pursuant to section 60-6,211.05 upon presentation of sufficient
5 evidence to the department that such a device is installed, unless
6 the person's driving record abstract maintained in the department's
7 computerized records shows one or more prior administrative license
8 revocations on which final orders have been issued during the
9 immediately preceding twelve-year period at the time the order of
10 revocation is issued.

11 ~~(e)~~ (d) A person operating a motor vehicle pursuant to
12 this subsection shall only operate the motor vehicle to and from
13 his or her residence, ~~to~~ his or her place of employment, his or
14 her school, or an alcohol treatment program, required visits with
15 his or her probation officer, or an ignition interlock service
16 facility. Such permit shall indicate for which purposes the permit
17 may be used. All permits issued pursuant to this subsection shall
18 indicate that the permit is not valid for the operation of any
19 commercial motor vehicle.

20 ~~(4)~~ No person shall be eligible for an employment driving
21 permit or an ignition interlock permit during any period of time
22 during which his or her operator's license is subject to an
23 administrative revocation order for refusal to submit to a chemical
24 test of blood, breath, or urine as required by section 60-6,197.

25 ~~(5)~~ (4) A person may have his or her eligibility for a

1 license reinstated upon payment of a reinstatement fee as required
2 by section 60-694.01.

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

9 (i) Within the thirty-day period following the date
10 of arrest, the prosecuting attorney responsible for the matter
11 declined to file a complaint alleging a violation of section
12 60-6,196 and notified the director by first-class mail or facsimile
13 transmission of such decision and the director received such notice
14 within such period or the notice was postmarked within such period;
15 or

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

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

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

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

6 Sec. 3. Section 60-4,115, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 60-4,115 (1) Fees for operators' licenses and state
9 identification cards shall be collected and distributed according
10 to the table in subsection (2) of this section, except for the
11 ignition interlock permit and associated fees as outlined in
12 subsection (4) of this section. County officials shall remit the
13 county portion of the fees collected to the county treasurer for
14 placement in the county general fund. All other fees collected
15 shall be remitted to the State Treasurer for credit to the
16 appropriate fund. The State Treasurer shall transfer an amount
17 equal to three dollars and fifty cents times the number of original
18 or renewal Class M licenses issued pursuant to section 60-4,127
19 during the previous year from the Department of Motor Vehicles Cash
20 Fund to the Motorcycle Safety Education Fund.

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

24 Department
25 County of Motor State

	Document	Total	General	Vehicles	General
		Fee	Fund	Cash Fund	Fund
3	State identification card:				
4	Valid for 1 year or less	5.00	2.75	1.25	1.00
5	Valid for more than 1 year				
6	but not more than 2 years	10.00	2.75	4.00	3.25
7	Valid for more than 2 years				
8	but not more than 3 years	14.00	2.75	5.25	6.00
9	Valid for more than 3 years				
10	but not more than 4 years	19.00	2.75	8.00	8.25
11	Valid for more than 4 years				
12	for person under 21	24.00	2.75	10.25	11.00
13	Valid for 5 years	24.00	3.50	10.25	10.25
14	Duplicate or replacement	11.00	2.75	6.00	2.25
15	Class O or M operator's license:				
16	Valid for 1 year or less	5.00	2.75	1.25	1.00
17	Valid for more than 1 year				
18	but not more than 2 years	10.00	2.75	4.00	3.25
19	Valid for more than 2 years				
20	but not more than 3 years	14.00	2.75	5.25	6.00
21	Valid for more than 3 years				
22	but not more than 4 years	19.00	2.75	8.00	8.25
23	Valid for 5 years	24.00	3.50	10.25	10.25
24	Bioptic or telescopic lens restriction:				
25	Valid for 1 year or less	5.00	0	5.00	0
26	Valid for more than 1 year				

	LB 497			LB 497	
1	but not more than 2 years	10.00	2.75	4.00	3.25
2	Duplicate or replacement	11.00	2.75	6.00	2.25
3	Add, change, or remove class,				
4	endorsement, or restriction	5.00	0	5.00	0
5	Provisional operator's permit:				
6	Original	15.00	2.75	12.25	0
7	Bioptic or telescopic lens restriction:				
8	Valid for 1 year or less	5.00	0	5.00	0
9	Valid for more than 1 year				
10	but not more than 2 years	15.00	2.75	12.25	0
11	Duplicate or replacement	11.00	2.75	6.00	2.25
12	Add, change, or remove class,				
13	endorsement, or restriction	5.00	0	5.00	0
14	LPD-learner's permit:				
15	Original	8.00	.25	5.00	2.75
16	Duplicate or replacement	11.00	2.75	6.00	2.25
17	Add, change, or remove class,				
18	endorsement, or restriction	5.00	0	5.00	0
19	LPE-learner's permit:				
20	Original	8.00	.25	5.00	2.75
21	Duplicate or replacement	11.00	2.75	6.00	2.25
22	Add, change, or remove class,				
23	endorsement, or restriction	5.00	0	5.00	0
24	School permit:				
25	Original	8.00	.25	5.00	2.75
26	Duplicate or replacement	11.00	2.75	6.00	2.25

LB 497

LB 497

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

LB 497

LB 497

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

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

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

1 Cash Fund. Forty dollars of the fee shall be remitted to the State
2 Treasurer for credit to the ~~Ignition Interlock Device~~ Probation
3 Cash Fund.

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

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

16 (5) This subsection applies beginning on the
17 implementation date designated by the director pursuant to
18 section 60-462.02. The department and its agents may collect an
19 identity security surcharge to cover the cost of security and
20 technology practices used to protect the identity of applicants for
21 and holders of operators' licenses and state identification cards
22 and to reduce identity theft, fraud, and forgery and counterfeiting
23 of such licenses and cards to the maximum extent possible. The
24 surcharge shall be in addition to all other required fees for
25 operators' licenses and state identification cards. The amount of

1 the surcharge shall be determined by the department. The surcharge
2 shall not exceed eight dollars. The surcharge shall be remitted to
3 the State Treasurer for credit to the Department of Motor Vehicles
4 Cash Fund.

5 Sec. 4. Section 60-4,118.06, Revised Statutes Cumulative
6 Supplement, 2008, is amended to read:

7 60-4,118.06 (1) Upon receipt by the director of (a)
8 a certified copy of a court order issued pursuant to section
9 60-6,211.05, a certified copy of an order for installation of an
10 ignition interlock device and issuance of an ignition interlock
11 permit pursuant to subdivision (1), (2), or ~~(2)~~ (3) of section
12 60-6,197.03, or a copy of an order from the Board of Pardons
13 pursuant to section 83-1,127.02, (b) sufficient evidence that
14 the person has surrendered his or her operator's license to the
15 Department of Motor Vehicles and installed an approved ignition
16 interlock device in accordance with such order, and (c) payment of
17 the fee provided in section 60-4,115, such person may apply for
18 an ignition interlock permit. A person subject to administrative
19 license revocation under section 60-498.02 shall be eligible for
20 an ignition interlock permit as provided in such section. The
21 director shall issue an ignition interlock permit for the operation
22 of a motor vehicle equipped with an ignition interlock device.
23 Any person issued an ignition interlock permit pursuant to a
24 court order shall only operate the motor vehicle equipped with an
25 ignition interlock device to and from his or her residence, his or

1 her place of employment, his or her school, an alcohol treatment
2 program, required visits with his or her probation officer, or an
3 ignition interlock service facility. The ~~Such~~ permit shall indicate
4 for which purposes the permit may be used. All permits issued
5 pursuant to this subsection shall indicate that the permit is
6 not valid for the operation of any commercial motor vehicle. The
7 department shall not issue an ignition interlock permit to any
8 person convicted of a second or subsequent violation of section
9 60-6,196 or 60-6,197 until at least one year of the operator's
10 license revocation has elapsed.

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

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

25 Sec. 5. Section 60-6,197.01, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 60-6,197.01 (1) Upon conviction for a violation described
3 in section 60-6,197.06 or a second or subsequent violation of
4 section 60-6,196 or 60-6,197, the court shall impose either of the
5 following restrictions:

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

24 (ii) (A) Any immobilized motor vehicle shall be released
25 by the court without any legal or physical restraints to any

1 registered owner who is not the registered owner convicted of a
2 second or subsequent violation of section 60-6,196 or 60-6,197
3 if an affidavit is submitted to the court by such registered
4 owner stating that the affiant is employed, that the motor vehicle
5 subject to immobilization is necessary to continue that employment,
6 that such employment is necessary for the well-being of the
7 affiant's dependent children or parents, that the affiant will not
8 authorize the use of the motor vehicle by any person known by the
9 affiant to have been convicted of a second or subsequent violation
10 of section 60-6,196 or 60-6,197, that affiant will immediately
11 report to a local law enforcement agency any unauthorized use of
12 the motor vehicle by any person known by the affiant to have been
13 convicted of a second or subsequent conviction of section 60-6,196
14 or 60-6,197, and that failure to release the motor vehicle would
15 cause undue hardship to the affiant.

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

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

25 (b) As an alternative to subdivision (1)(a) of this

1 section, the court shall order the convicted person, in order to
2 operate a motor vehicle, to obtain an ignition interlock permit and
3 install an ignition interlock device on each ~~of the motor vehicles~~
4 vehicle owned or operated by the convicted person if he or she
5 was sentenced to an operator's license revocation of at least one
6 year, ~~and has completed at least one year of such revocation.~~ No
7 ignition interlock permit may be issued until sufficient evidence
8 is presented to the department that an ignition interlock device
9 is installed on each vehicle and that the applicant is eligible
10 for use of an ignition interlock device. The installation of an
11 ignition interlock device shall be for a period not less than six
12 months, ~~commencing upon the end of such year of the operator's~~
13 ~~license revocation.~~ Notwithstanding any other provision of law,
14 if the owner was convicted of a second or subsequent violation
15 of section 60-6,196 or 60-6,197, no ignition interlock device or
16 ignition interlock permit shall be ordered by any court or state
17 agency under any circumstances until at least one year of the
18 operator's license revocation shall have elapsed.

19 (2) In addition to the restrictions required by
20 subdivision (1)(b) of this section, the court may require a person
21 convicted of a second or subsequent violation of section 60-6,196
22 or 60-6,197 to use a continuous alcohol monitoring device and
23 abstain from alcohol use for a period of time not to exceed
24 the maximum term of license revocation ordered by the court. A
25 continuous alcohol monitoring device shall not be ordered for a

1 person convicted of a second or subsequent violation unless the
2 installation of an ignition interlock device is also required.

3 Sec. 6. Section 60-6,197.02, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 60-6,197.02 (1) A violation of section 60-6,196 or
6 60-6,197 shall be punished as provided in section 60-6,197.03.
7 For purposes of sentencing under section 60-6,197.03:

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

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

12 (A) Any conviction for a violation of section 60-6,196;

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

15 (C) Any conviction under a law of another state if, at
16 the time of the conviction under the law of such other state,
17 the offense for which the person was convicted would have been a
18 violation of section 60-6,196; or

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

20 or

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

22 (A) Any conviction for a violation of section 60-6,197;

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

25 (C) Any conviction under a law of another state if, at

1 the time of the conviction under the law of such other state,
2 the offense for which the person was convicted would have been a
3 violation of section 60-6,197;

4 (b) Prior conviction includes any conviction under
5 section 60-6,196, 60-6,197, or 60-6,198, or any city or village
6 ordinance enacted in conformance with any of such sections, as
7 such sections or city or village ordinances existed at the time of
8 such conviction regardless of subsequent amendments to any of such
9 sections or city or village ordinances; and

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

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

24 (3) For each conviction for a violation of section
25 60-6,196 or 60-6,197, the court shall, as part of the judgment of

1 conviction, make a finding on the record as to the number of the
2 convicted person's prior convictions. The convicted person shall
3 be given the opportunity to review the record of his or her prior
4 convictions, bring mitigating facts to the attention of the court
5 prior to sentencing, and make objections on the record regarding
6 the validity of such prior convictions.

7 (4) A person arrested for a violation of section 60-6,196
8 or 60-6,197 before the effective date of this act, but sentenced
9 pursuant to section 60-6,197.03 for such violation on or after the
10 effective date of this act, shall be sentenced according to the
11 provisions of section 60-6,197.03 in effect on the date of arrest.

12 Sec. 7. Section 60-6,197.03, Revised Statutes Cumulative
13 Supplement, 2008, is amended to read:

14 60-6,197.03 Any person convicted of a violation of
15 section 60-6,196 or 60-6,197 shall be punished as follows:

16 (1) Except as provided in subdivision (2) of this
17 section, if such person has not had a prior conviction, such person
18 shall be guilty of a Class W misdemeanor, and the court shall,
19 as part of the judgment of conviction, order that the operator's
20 license of such person be revoked or impounded for a period of six
21 months from the date ordered by the court. If the court orders the
22 person's operator's license impounded, the court shall also order
23 that the person shall not operate a motor vehicle for a period
24 of six months and shall not order the installation of an ignition
25 interlock device or an ignition interlock permit. If the court

1 orders the person's operator's license revoked, the revocation
2 period shall be for six months. The revocation order shall require
3 that the person not drive for a period of thirty days, after which
4 the court may order that and ~~the court shall order that after~~
5 ~~thirty days of no driving,~~ the person may apply for an ignition
6 interlock permit for the remainder of the revocation period and
7 shall have an ignition interlock device installed on any motor
8 vehicle he or she operates during the remainder of the revocation
9 period. Such revocation or impoundment shall be administered upon
10 sentencing, upon final judgment of any appeal or review, or upon
11 the date that any probation is revoked.

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

23 (2) If such person has not had a prior conviction
24 and, as part of the current violation, had a concentration of
25 fifteen-hundredths of one gram or more by weight of alcohol per

1 one hundred milliliters of his or her blood or fifteen-hundredths
2 of one gram or more by weight of alcohol per two hundred ten
3 liters of his or her breath, such person shall be guilty of a
4 Class W misdemeanor, and the court shall, as part of the judgment
5 of conviction, revoke the operator's license of such person for
6 a period of one year from the date ordered by the court. The
7 revocation order shall require that the person not drive for a
8 period of sixty days, after which the court may order that and
9 shall order that after sixty days of no driving, the person
10 may apply for an ignition interlock permit for the remainder
11 of the revocation period and shall have an ignition interlock
12 device installed on any motor vehicle he or she operates during
13 the remainder of the revocation period. Such revocation shall be
14 administered upon sentencing, upon final judgment of any appeal or
15 review, or upon the date that any probation is revoked.

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

1 period and have an ignition interlock device installed on any motor
2 vehicle he or she operates during the remainder of the revocation
3 period. Such revocation shall be administered upon sentencing, upon
4 final judgment of any appeal or review, or upon the date that
5 any probation is revoked. Such order of probation or sentence
6 suspension shall also include, as conditions, the payment of a
7 five-hundred-dollar fine and either confinement in the city or
8 county jail for two days or the imposition of not less than one
9 hundred twenty hours of community service;

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

25 If the court places such person on probation or suspends

1 the sentence for any reason, the court shall, as one of the
2 conditions of probation or sentence suspension, order that the
3 operator's license of such person be revoked for a period of one
4 year from the date ordered by the court. The revocation order
5 shall require that the person not drive for a period of forty-five
6 days, after which the court may order that during the period of
7 revocation the person apply for unless otherwise authorized by
8 ~~an order for~~ an ignition interlock permit and installation of an
9 ignition interlock device issued pursuant to section 60-6,211.05
10 and shall issue an order pursuant to section 60-6,197.01. Such
11 ~~an~~ ~~and such~~ order of probation or sentence suspension shall also
12 include, as conditions, the payment of a five-hundred-dollar fine
13 and either confinement in the city or county jail for ten days
14 or the imposition of not less than two hundred forty hours of
15 community service;

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

25 If the court places such person on probation or suspends

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

15 (5) If such person has had one prior conviction
16 and, as part of the current violation, had a concentration of
17 fifteen-hundredths of one gram or more by weight of alcohol per
18 one hundred milliliters of his or her blood or fifteen-hundredths
19 of one gram or more by weight of alcohol per two hundred ten
20 liters of his or her breath or refused to submit to a test as
21 required under section 60-6,197, such person shall be guilty of a
22 Class I misdemeanor, and the court shall, as part of the judgment
23 of conviction, revoke the operator's license of such person for
24 a period of at least one year but not more than fifteen years
25 from the date ordered by the court and shall issue an order

1 pursuant to section 60-6,197.01. Such revocation and order shall be
2 administered upon sentencing, upon final judgment of any appeal or
3 review, or upon the date that any probation is revoked. The court
4 shall also sentence such person to serve at least ninety days'
5 imprisonment in the city or county jail or an adult correctional
6 facility.

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

22 (6) If such person has had two prior convictions
23 and, as part of the current violation, had a concentration of
24 fifteen-hundredths of one gram or more by weight of alcohol per one
25 hundred milliliters of his or her blood or fifteen-hundredths of

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

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

1 payment of a one-thousand-dollar fine and confinement in the city
2 or county jail for sixty days;

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

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

1 60-6,197.01. Such ~~and such~~ order of probation or sentence
2 suspension shall also include, as conditions, the payment of a
3 one-thousand-dollar fine and confinement in the city or county jail
4 for ninety days;

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

18 If the court places such person on probation or suspends
19 the sentence for any reason, the court shall, as one of the
20 conditions of probation or sentence suspension, order that the
21 operator's license of such person be revoked for a period of
22 fifteen years from the date ordered by the court. The revocation
23 order shall require that the person not drive for a period of
24 forty-five days, after which the court may order that during
25 the period of revocation the person apply for unless otherwise

1 ~~authorized by an order for~~ an ignition interlock permit and
2 installation of an ignition interlock device issued pursuant to
3 section 60-6,211.05 and shall issue an order pursuant to section
4 60-6,197.01. Such ~~and such~~ order of probation or sentence
5 suspension shall also include, as conditions, the payment of a
6 one-thousand-dollar fine and confinement in the city or county jail
7 for one hundred twenty days;

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

17 If the court places such person on probation or suspends
18 the sentence for any reason, the court shall, as one of the
19 conditions of probation or sentence suspension, order that the
20 operator's license of such person be revoked for a period of
21 fifteen years from the date ordered by the court. The revocation
22 order shall require that the person not drive for a period of
23 forty-five days, after which the court may order that during
24 the period of revocation the person apply for unless otherwise
25 ~~authorized by an order for~~ an ignition interlock permit and

1 installation of an ignition interlock device issued pursuant to
2 section 60-6,211.05 and shall issue an order pursuant to section
3 60-6,197.01. Such ~~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
8 convictions and, as part of the current violation, had a
9 concentration of fifteen-hundredths of one gram or more by weight
10 of alcohol per one hundred milliliters of his or her blood or
11 fifteen-hundredths of one gram or more by weight of alcohol per
12 two hundred ten liters of his or her breath or refused to submit
13 to a test as required under section 60-6,197, such person shall
14 be guilty of a Class II felony and the court shall, as part of
15 the judgment of conviction, revoke the operator's license of such
16 person for a period of fifteen years from the date ordered by the
17 court and shall issue an order pursuant to section 60-6,197.01.
18 Such revocation and order shall be administered upon sentencing,
19 upon final judgment of any appeal or review, or upon the date that
20 any probation is revoked.

21 If the court places such person on probation or suspends
22 the sentence for any reason, the court shall, as one of the
23 conditions of probation or sentence suspension, order that the
24 operator's license of such person be revoked for a period of
25 fifteen years from the date ordered by the court. The revocation

1 order shall require that the person not drive for a period of
2 forty-five days, after which the court may order that during
3 the period of revocation the person apply for unless otherwise
4 authorized by an order for an ignition interlock permit and
5 installation of an ignition interlock device issued pursuant to
6 section 60-6,211.05 and shall issue an order pursuant to section
7 60-6,197.01. Such ~~and such~~ order of probation or sentence
8 suspension shall also include, as conditions, the payment of a
9 one-thousand-dollar fine and confinement in the city or county jail
10 for one hundred eighty days.

11 Sec. 8. Section 60-6,197.05, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 60-6,197.05 Any period of revocation imposed for a
14 violation of section 60-6,196 or 60-6,197 shall be reduced
15 by any period imposed under section 60-498.02. Any period of
16 revocation imposed under subdivision (1) of section 60-6,197.03 for
17 a violation of section 60-6,196 or 60-6,197 or under subdivision
18 (2)(a) of section 60-6,196, as such section existed prior to July
19 16, 2004, shall not prohibit the operation of a motor vehicle under
20 the terms and conditions of an employment driving permit issued
21 pursuant to subsection (2) of section 60-498.02.

22 Sec. 9. Section 60-6,197.06, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 60-6,197.06 (1) Unless otherwise provided by law pursuant
25 to an ignition interlock permit, any ~~Any~~ person operating a motor

1 vehicle on the highways or streets of this state while his or her
2 operator's license has been revoked pursuant to section 28-306,
3 section 60-698, subdivision (4), (5), (6), (7), (8), (9), or
4 (10) of section 60-6,197.03, or section 60-6,198, or pursuant to
5 subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision
6 (4)(c) or (4)(d) of section 60-6,197 as such subdivisions existed
7 prior to July 16, 2004, shall be guilty of a Class IV felony,
8 and the court shall, as part of the judgment of conviction, revoke
9 the operator's license of such person for a period of fifteen
10 years from the date ordered by the court and shall issue an order
11 pursuant to section 60-6,197.01. Such revocation and order shall be
12 administered upon sentencing, upon final judgment of any appeal or
13 review, or upon the date that any probation is revoked.

14 (2) If such person has had a conviction under this
15 section or under subsection (6) of section 60-6,196 or subsection
16 (7) of section 60-6,197, as such subsections existed prior to July
17 16, 2004, prior to the date of the current conviction under this
18 section, such person shall be guilty of a Class III felony, and
19 the court shall, as part of the judgment of conviction, revoke
20 the operator's license of such person for a period of fifteen
21 years from the date ordered by the court and shall issue an order
22 pursuant to section 60-6,197.01. Such revocation and order shall be
23 administered upon sentencing, upon final judgment of any appeal or
24 review, or upon the date that any probation is revoked.

25 Sec. 10. Section 60-6,211.05, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 60-6,211.05 (1)(a) If an order of probation is granted
3 under section 60-6,196 or 60-6,197, as such sections existed
4 prior to July 16, 2004, or section 60-6,196 or 60-6,197 and
5 sections 60-6,197.02 and 60-6,197.03, as such sections existed on
6 or after July 16, 2004, the court may order that the defendant
7 ~~to~~ install an ignition interlock device of a type approved by
8 the Director of Motor Vehicles on each motor vehicle operated
9 by the defendant during the period of probation. Upon sufficient
10 evidence of installation, the defendant may apply to the director
11 for an ignition interlock permit pursuant to section 60-4,118.06.

12 The device shall, without tampering or the intervention of another
13 person, prevent the defendant from operating the motor vehicle
14 when the defendant has an alcohol concentration greater than
15 three-hundredths of one gram or more by weight of alcohol per one
16 hundred milliliters of his or her blood or three-hundredths of one
17 gram or more by weight of alcohol per two hundred ten liters of his
18 or her breath. the levels prescribed in section 60-6,196.

19 (b) If the court orders an ignition interlock permit
20 and installation of an ignition interlock device as part of the
21 judgment of conviction pursuant to subdivision (1), ~~or~~ (2), or (3)
22 of section 60-6,197.03, the device shall be of a type approved
23 by the director and shall be installed on each motor vehicle
24 operated by the defendant. The device shall, without tampering
25 or the intervention of another person, prevent the defendant from

1 operating the motor vehicle when the defendant has an alcohol
2 concentration greater than three-hundredths of one gram or more by
3 weight of alcohol per one hundred milliliters of his or her blood
4 or three-hundredths of one gram or more by weight of alcohol per
5 two hundred ten liters of his or her breath. the levels prescribed
6 in section 60-6,196.

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

15 (3) Any order issued by the court pursuant to this
16 section shall not take effect until the defendant is eligible
17 to operate a motor vehicle pursuant to subsection (3) of section
18 60-498.02.

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

1 **(b)** Such court order shall remain in effect for a period
2 of time as determined by the court not to exceed the maximum
3 term of revocation which the court could have imposed according
4 to the nature of the violation and shall allow operation of an
5 ignition-interlock-equipped motor vehicle only to and from the
6 defendant's residence, ~~to~~ the defendant's place of employment,
7 the defendant's school, ~~or an alcohol treatment program,~~ required
8 visits with his or her probation officer, or an ignition interlock
9 service facility.

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

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

22 (6) Any person restricted to operating a motor vehicle
23 equipped with an ignition interlock device, pursuant to a Board of
24 Pardons order, who operates upon the highways of this state a motor
25 vehicle without such device or if the device has been disabled,

1 bypassed, or altered in any way, shall be punished as provided in
2 subsection (3) of section 83-1,127.02.

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

12 (8) The director shall adopt and promulgate rules and
13 regulations ~~to approve~~ regarding the approval of ignition interlock
14 devices, and the means of installation of the installing ignition
15 interlock devices, and the means of administering the ignition
16 interlock permit program.

17 (9) The costs incurred in order to comply with the
18 ignition interlock requirements of this section shall be paid
19 by the person complying with an order for an ignition interlock
20 permit and installation of an ignition interlock device ~~pursuant to~~
21 ~~section 60-6,211.05 or 83-1,127.02~~ unless the court or the Board
22 of Pardons has determined the person to be ~~indigent,~~ incapable of
23 paying for the cost of installation, removal, or maintenance of the
24 ignition interlock device in accordance with this subsection.

25 (10)(a) An ignition interlock service facility shall

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

7 (b) If a district probation office receives evidence of
8 tampering with or circumvention of an ignition interlock device, or
9 any attempts to do so, from an ignition interlock service facility,
10 the district probation office shall notify the appropriate court of
11 such violation. The court shall immediately schedule an evidentiary
12 hearing to be held within fourteen days after receiving such
13 evidence, either from the district probation office or an ignition
14 interlock service facility, and the court shall cause notice of
15 the hearing to be given to the person operating a motor vehicle
16 pursuant to an order under subsection (1) of this section. If
17 the person who is the subject of such evidence does not appear
18 at the hearing and show cause why the order made pursuant to
19 subsection (1) of this section should remain in effect, the court
20 shall rescind the original order. Nothing in this subsection shall
21 apply to an order made by the Board of Pardons pursuant to section
22 83-1,127.02.

23 (11) Notwithstanding any other provision of law, the
24 costs associated with the installation, maintenance, and removal
25 of a court-ordered ignition interlock device by the Office of

1 Probation Administration shall not be construed so as to create
2 an order of probation when an order for the installation of an
3 ignition interlock device and ignition interlock permit was made
4 pursuant to subdivision (1)(b) of this section as part of a
5 conviction.

6 Sec. 11. Original sections 29-2259.01 and 60-6,197.05,
7 Reissue Revised Statutes of Nebraska, and sections 60-498.02,
8 60-4,115, 60-4,118.06, 60-6,197.01, 60-6,197.02, 60-6,197.03,
9 60-6,197.06, and 60-6,211.05, Revised Statutes Cumulative
10 Supplement, 2008, are repealed.

11 Sec. 12. The following section is outright repealed:
12 Section 60-6,211.10, Revised Statutes Cumulative Supplement, 2008.

13 Sec. 13. Since an emergency exists, this act takes effect
14 when passed and approved according to law.