

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 158
Final Reading

Introduced by Seiler, 33.

Read first time January 14, 2013

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend section 60-6,197.01,
2 Reissue Revised Statutes of Nebraska, and sections
3 60-498.02, 60-4,118.06, 60-6,197.03, and 60-6,211.05,
4 Revised Statutes Cumulative Supplement, 2012; to change
5 provisions relating to ignition interlock devices; to
6 provide an operative date; to repeal the original
7 sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-498.02, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 60-498.02 (1) At the expiration of fifteen days after the
4 date of arrest as described in subsection (2) of section 60-6,197 or
5 if after a hearing pursuant to section 60-498.01 the director finds
6 that the operator's license should be revoked, the director shall (a)
7 revoke the operator's license of a person arrested for refusal to
8 submit to a chemical test of blood, breath, or urine as required by
9 section 60-6,197 for a period of one year and (b) revoke the
10 operator's license of a person who submits to a chemical test
11 pursuant to such section which discloses the presence of a
12 concentration of alcohol specified in section 60-6,196 for a period
13 of one hundred eighty days unless the person's driving record
14 abstract maintained in the department's computerized records shows
15 one or more prior administrative license revocations on which final
16 orders have been issued during the immediately preceding fifteen-year
17 period at the time the order of revocation is issued, in which case
18 the period of revocation shall be one year. Except as otherwise
19 provided in section 60-6,211.05, a new operator's license shall not
20 be issued to such person until the period of revocation has elapsed.
21 If the person subject to the revocation is a nonresident of this
22 state, the director shall revoke only the nonresident's operating
23 privilege as defined in section 60-474 of such person and shall
24 immediately forward the operator's license and a statement of the
25 order of revocation to the person's state of residence.

1 (2) A person operating a motor vehicle under an ignition
2 interlock permit issued pursuant to sections 60-498.01 to 60-498.04
3 ~~who has no previous convictions under section 60-6,196, 60-6,197, or~~
4 ~~60-6,197.06 and no previous administrative license revocation shall~~
5 ~~only operate the motor vehicle to and from his or her residence for~~
6 ~~purposes of his or her employment, his or her school, a substance~~
7 ~~abuse treatment program, his or her parole or probation officer, his~~
8 ~~or her continuing health care or the continuing health care of~~
9 ~~another person who is dependent upon the person, his or her court-~~
10 ~~ordered community service responsibilities, or an ignition interlock~~
11 ~~service facility. A person operating a motor vehicle under an~~
12 ~~ignition interlock permit issued pursuant to sections 60-498.01 to~~
13 ~~60-498.04 who has a previous conviction under section 60-6,196,~~
14 ~~60-6,197, or 60-6,197.06 or a previous administrative license~~
15 ~~revocation shall only operate the~~a ~~motor vehicle equipped with an~~
16 ~~ignition interlock device, to and from his or her residence, his or~~
17 ~~her place of employment, his or her school, a substance abuse~~
18 ~~treatment program, or an ignition interlock service facility. Such~~
19 ~~permit shall indicate for which purposes the permit may be used. All~~
20 ~~permits issued pursuant to this subsection~~ such sections ~~shall~~
21 ~~indicate that the permit is not valid for the operation of any~~
22 ~~commercial motor vehicle.~~

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

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

6 (i) The prosecuting attorney responsible for the matter
7 declined to file a complaint alleging a violation of section
8 60-6,196;

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

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

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

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

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

1 (c) If a criminal charge is filed or refiled for a
2 violation of section 60-6,196 pursuant to an arrest for which all
3 administrative license revocation proceedings were dismissed under
4 this subsection, the director, upon notification or discovery, may
5 reinstate an administrative license revocation under this section as
6 of the date that the director receives notification of the filing or
7 refiling of the charge, except that a revocation shall not be
8 reinstated if it was dismissed pursuant to section 60-498.01.

9 Sec. 2. Section 60-4,118.06, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 60-4,118.06 (1) Upon receipt by the director of (a) a
12 certified copy of a court order issued pursuant to section
13 60-6,211.05, a certified copy of an order for installation of an
14 ignition interlock device and issuance of an ignition interlock
15 permit pursuant to section 60-6,197.03, or a copy of an order from
16 the Board of Pardons pursuant to section 83-1,127.02, (b) sufficient
17 evidence that the person has surrendered his or her operator's
18 license to the department and installed an approved ignition
19 interlock device in accordance with such order, and (c) payment of
20 the fee provided in section 60-4,115, such person may apply for an
21 ignition interlock permit. A person subject to administrative license
22 revocation under sections 60-498.01 to 60-498.04 shall be eligible
23 for an ignition interlock permit as provided in such sections. The
24 director shall issue an ignition interlock permit only for the
25 operation of a motor vehicle equipped with an ignition interlock

1 ~~device. Any person issued an ignition interlock permit pursuant to a~~
2 ~~court order who has no previous convictions under section 60-6,196,~~
3 ~~60-6,197, or 60-6,197.06 and no previous administrative license~~
4 ~~revocation shall only operate the motor vehicle equipped with an~~
5 ~~ignition interlock device to and from his or her residence for~~
6 ~~purposes of his or her employment, his or her school, a substance~~
7 ~~abuse treatment program, his or her parole or probation officer, his~~
8 ~~or her continuing health care or the continuing health care of~~
9 ~~another person who is dependent upon the person, his or her court-~~
10 ~~ordered community service responsibilities, or an ignition interlock~~
11 ~~service facility. Any person issued an ignition interlock permit~~
12 ~~pursuant to a court order who has a previous conviction under section~~
13 ~~60-6,196, 60-6,197, or 60-6,197.06 or a previous administrative~~
14 ~~license revocation shall only operate the motor vehicle equipped with~~
15 ~~an ignition interlock device to and from his or her residence, his or~~
16 ~~her place of employment, his or her school, a substance abuse~~
17 ~~treatment program, or an ignition interlock service facility. The~~
18 ~~permit shall indicate for which purposes the permit may be used. All~~
19 ~~permits issued pursuant to this subsection shall indicate that the~~
20 ~~permit is not valid for the operation of any commercial motor~~
21 ~~vehicle.~~

22 (2) Upon expiration of the revocation period or upon
23 expiration of an order issued by the Board of Pardons pursuant to
24 section 83-1,127.02, a person may apply to the department in writing
25 for issuance of an operator's license. Regardless of whether the

1 license surrendered by such person under subsection (1) of this
2 section has expired, the person shall apply for a new operator's
3 license pursuant to the Motor Vehicle Operator's License Act.

4 (3)(a) An ignition interlock permit shall not be issued
5 under this section or sections 60-498.01 to 60-498.04 to any person
6 except in cases of a violation of subdivision (3)(b) or (c) of
7 section 28-306, subdivision (3)(b) or (c) of section 28-394, or
8 section 28-1254, 60-6,196, 60-6,197, or 60-6,197.06.

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

11 (4) The director shall revoke a person's ignition
12 interlock permit issued under this section or sections 60-498.01 to
13 60-498.04 upon receipt of an (a) abstract of conviction indicating
14 that the person had his or her operating privileges revoked or
15 canceled or (b) administrative order revoking or canceling the
16 person's operating privileges, if such conviction or order resulted
17 from an incident other than the incident which resulted in the
18 application for the ignition interlock permit.

19 Sec. 3. Section 60-6,197.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 60-6,197.01 (1) Upon conviction for a violation described
22 in section 60-6,197.06 or a second or subsequent violation of section
23 60-6,196 or 60-6,197, the court shall impose either of the following
24 restrictions:

25 (a)(i) The court shall order all motor vehicles owned by

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

17 (ii)(A) Any immobilized motor vehicle shall be released
18 by the court without any legal or physical restraints to any
19 registered owner who is not the registered owner convicted of a
20 second or subsequent violation of section 60-6,196 or 60-6,197 if an
21 affidavit is submitted to the court by such registered owner stating
22 that the affiant is employed, that the motor vehicle subject to
23 immobilization is necessary to continue that employment, that such
24 employment is necessary for the well-being of the affiant's dependent
25 children or parents, that the affiant will not authorize the use of

1 the motor vehicle by any person known by the affiant to have been
2 convicted of a second or subsequent violation of section 60-6,196 or
3 60-6,197, that affiant will immediately report to a local law
4 enforcement agency any unauthorized use of the motor vehicle by any
5 person known by the affiant to have been convicted of a second or
6 subsequent conviction of section 60-6,196 or 60-6,197, and that
7 failure to release the motor vehicle would cause undue hardship to
8 the affiant.

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

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

18 (b) As an alternative to subdivision (1)(a) of this
19 section, the court shall order the convicted person, in order to
20 operate a motor vehicle, to obtain an ignition interlock permit and
21 install an ignition interlock device on each motor vehicle owned or
22 operated by the convicted person if he or she was sentenced to an
23 operator's license revocation of at least one year. If the person's
24 operator's license has been revoked for at least a one-year period,
25 after a minimum of a forty-five-day no driving period, the person may

1 operate a motor vehicle with an ignition interlock permit and an
2 ignition interlock device pursuant to this subdivision and shall
3 retain the ignition interlock permit and ignition interlock device
4 for not less than ~~the remainder of a one-year period~~ or the period of
5 revocation ordered by the court, whichever is longer. No ignition
6 interlock permit may be issued until sufficient evidence is presented
7 to the department that an ignition interlock device is installed on
8 each vehicle and that the applicant is eligible for use of an
9 ignition interlock device. If the person has an ignition interlock
10 device installed as required under this subdivision, the person shall
11 not be eligible for reinstatement of his or her operator's license
12 until he or she has had the ignition interlock device installed for
13 the period ordered by the court.

14 (2) In addition to the restrictions required by
15 subdivision (1)(b) of this section, the court may require a person
16 convicted of a second or subsequent violation of section 60-6,196 or
17 60-6,197 to use a continuous alcohol monitoring device and abstain
18 from alcohol use for a period of time not to exceed the maximum term
19 of license revocation ordered by the court. A continuous alcohol
20 monitoring device shall not be ordered for a person convicted of a
21 second or subsequent violation unless the installation of an ignition
22 interlock device is also required.

23 Sec. 4. Section 60-6,197.03, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 60-6,197.03 Any person convicted of a violation of

1 section 60-6,196 or 60-6,197 shall be punished as follows:

2 (1) Except as provided in subdivision (2) of this
3 section, if such person has not had a prior conviction, such person
4 shall be guilty of a Class W misdemeanor, and the court shall, as
5 part of the judgment of conviction, order that the operator's license
6 of such person be revoked for a period of six months from the date
7 ordered by the court. The revocation order shall require that the
8 person apply for an ignition interlock permit pursuant to section
9 60-6,211.05 for the revocation period and have an ignition interlock
10 device installed on any motor vehicle he or she operates during the
11 revocation period. Such revocation shall be administered upon
12 sentencing, upon final judgment of any appeal or review, or upon the
13 date that any probation is revoked.

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

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

1 milliliters of his or her blood or fifteen-hundredths of one gram or
2 more by weight of alcohol per two hundred ten liters of his or her
3 breath, such person shall be guilty of a Class W misdemeanor, and the
4 court shall, as part of the judgment of conviction, revoke the
5 operator's license of such person for a period of one year from the
6 date ordered by the court. The revocation order shall require that
7 the person apply for an ignition interlock permit pursuant to
8 subdivision (1)(b) of section 60-6,197.01 for the revocation period
9 and have an ignition interlock device installed on any motor vehicle
10 he or she operates during the revocation period. Such revocation
11 shall be administered upon sentencing, upon final judgment of any
12 appeal or review, or upon the date that any probation is revoked.

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 one year
17 from the date ordered by the court. The revocation order shall
18 require that the person apply for an ignition interlock permit
19 pursuant to subdivision (1)(b) of section 60-6,197.01 for the
20 revocation period and have an ignition interlock device installed on
21 any motor vehicle he or she operates during the revocation period.
22 Such revocation shall be administered upon sentencing, upon final
23 judgment of any appeal or review, or upon the date that any probation
24 is revoked. Such order of probation or sentence suspension shall also
25 include, as conditions, the payment of a five-hundred-dollar fine and

1 either confinement in the city or county jail for two days or the
2 imposition of not less than one hundred twenty hours of community
3 service;

4 (3) Except as provided in subdivision (5) of this
5 section, if such person has had one prior conviction, such person
6 shall be guilty of a Class W misdemeanor, and the court shall, as
7 part of the judgment of conviction, order that the operator's license
8 of such person be revoked for a period of ~~one year~~ eighteen months
9 from the date ordered by the court. The revocation order shall
10 require that the person not drive for a period of forty-five days,
11 ~~after which the court shall order~~ and that the person apply for an
12 ignition interlock permit ~~for the remainder of the revocation period~~
13 and have an ignition interlock device installed on any motor vehicle
14 he or she owns or operates ~~during the remainder of the revocation~~
15 ~~period and for at least one year.~~ The court shall also issue an order
16 pursuant to subdivision (1)(b) of section 60-6,197.01. Such ~~If the~~
17 person has an ignition interlock device installed as required under
18 this subdivision, the person shall not be eligible for reinstatement
19 of his or her operator's license until he or she has had the ignition
20 interlock device installed for the period ordered by the court. The
21 revocation shall be administered upon sentencing, upon final judgment
22 of any appeal or review, or upon the date that any probation is
23 revoked.

24 If the court places such person on probation or suspends
25 the sentence for any reason, the court shall, as one of the

1 conditions of probation or sentence suspension, order that the
2 operator's license of such person be revoked for a period of ~~one year~~
3 eighteen months from the date ordered by the court. The revocation
4 order shall require that the person not drive for a period of forty-
5 five days, ~~after which the court shall order that during the period~~
6 ~~of revocation and that~~ the person apply for an ignition interlock
7 permit and installation of an ignition interlock device for not less
8 than a one-year period pursuant to section 60-6,211.05. ~~and The court~~
9 shall also issue an order pursuant to subdivision (1)(b) of section
10 60-6,197.01. ~~Such~~ If the person has an ignition interlock device
11 installed as required under this subdivision, the person shall not be
12 eligible for reinstatement of his or her operator's license until he
13 or she has had the ignition interlock device installed for the period
14 ordered by the court. The order of probation or sentence suspension
15 shall also include, as conditions, the payment of a five-hundred-
16 dollar fine and either confinement in the city or county jail for ten
17 days or the imposition of not less than two hundred forty hours of
18 community service;

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

1 final judgment of any appeal or review, or upon the date that any
2 probation is revoked.

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

17 (5) If such person has had one prior conviction and, as
18 part of the current violation, had a concentration of fifteen-
19 hundredths of one gram or more by weight of alcohol per one hundred
20 milliliters of his or her blood or fifteen-hundredths of one gram or
21 more by weight of alcohol per two hundred ten liters of his or her
22 breath or refused to submit to a test as required under section
23 60-6,197, such person shall be guilty of a Class I misdemeanor, and
24 the court shall, as part of the judgment of conviction, order payment
25 of a one-thousand-dollar fine and revoke the operator's license of

1 such person for a period of at least ~~one year~~ eighteen months but not
2 more than fifteen years from the date ordered by the court and shall
3 issue an order pursuant to section 60-6,197.01. Such revocation and
4 order shall be administered upon sentencing, upon final judgment of
5 any appeal or review, or upon the date that any probation is revoked.
6 The court shall also sentence such person to serve at least ninety
7 days' imprisonment in the city or county jail or an adult
8 correctional facility.

9 If the court places such person on probation or suspends
10 the sentence for any reason, the court shall, as one of the
11 conditions of probation or sentence suspension, order that the
12 operator's license of such person be revoked for a period of at least
13 ~~one year~~ eighteen months but not more than fifteen years from the
14 date ordered by the court. The revocation order shall require that
15 the person not drive for a period of forty-five days, ~~after which the~~
16 ~~court may order~~ and that during the period of revocation the person
17 apply for an ignition interlock permit and installation of an
18 ignition interlock device for not less than a one-year period issued
19 pursuant to section 60-6,211.05. ~~and~~ The court shall also issue an
20 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such ~~If~~
21 the person has an ignition interlock device installed as required
22 under this subdivision, the person shall not be eligible for
23 reinstatement of his or her operator's license until he or she has
24 had the ignition interlock device installed for the period ordered by
25 the court. The order of probation or sentence suspension shall also

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

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

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 at least
22 five years but not more than fifteen years from the date ordered by
23 the court. The revocation order shall require that the person not
24 drive for a period of forty-five days, after which the court may
25 order that during the period of revocation the person apply for an

1 ignition interlock permit and installation of an ignition interlock
2 device issued pursuant to section 60-6,211.05 and shall issue an
3 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such
4 order of probation or sentence suspension shall also include, as
5 conditions, the payment of a one-thousand-dollar fine, confinement in
6 the city or county jail for sixty days, and, upon release from such
7 confinement, the use of a continuous alcohol monitoring device and
8 abstention from alcohol use at all times for no less than sixty days;

9 (7) Except as provided in subdivision (8) of this
10 section, if such person has had three prior convictions, such person
11 shall be guilty of a Class IIIA felony, and the court shall, as part
12 of the judgment of conviction, order that the operator's license of
13 such person be revoked for a period of fifteen years from the date
14 ordered by the court and shall issue an order pursuant to section
15 60-6,197.01. Such orders shall be administered upon sentencing, upon
16 final judgment of any appeal or review, or upon the date that any
17 probation is revoked. The court shall also sentence such person to
18 serve at least one hundred eighty days' imprisonment in the city or
19 county jail or an adult correctional facility.

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

1 after which the court may order that during the period of revocation
2 the person apply for an ignition interlock permit and installation of
3 an ignition interlock device issued pursuant to section 60-6,211.05
4 and shall issue an order pursuant to subdivision (1)(b) of section
5 60-6,197.01. Such order of probation or sentence suspension shall
6 also include, as conditions, the payment of a two-thousand-dollar
7 fine, confinement in the city or county jail for ninety days, and,
8 upon release from such confinement, the use of a continuous alcohol
9 monitoring device and abstention from alcohol use at all times for no
10 less than ninety days;

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

24 If the court places such person on probation or suspends
25 the sentence for any reason, the court shall, as one of the

1 conditions of probation or sentence suspension, order that the
2 operator's license of such person be revoked for a period of fifteen
3 years from the date ordered by the court. The revocation order shall
4 require that the person not drive for a period of forty-five days,
5 after which the court may order that during the period of revocation
6 the person apply for an ignition interlock permit and installation of
7 an ignition interlock device issued pursuant to section 60-6,211.05
8 and shall issue an order pursuant to subdivision (1)(b) of section
9 60-6,197.01. Such order of probation or sentence suspension shall
10 also include, as conditions, the payment of a two-thousand-dollar
11 fine, confinement in the city or county jail for one hundred twenty
12 days, and, upon release from such confinement, the use of a
13 continuous alcohol monitoring device and abstention from alcohol use
14 at all times for no less than one hundred twenty days;

15 (9) Except as provided in subdivision (10) of this
16 section, if such person has had four or more prior convictions, such
17 person shall be guilty of a Class III felony with a minimum sentence
18 of two years' imprisonment, and the court shall, as part of the
19 judgment of conviction, order that the operator's license of such
20 person be revoked for a period of fifteen years from the date ordered
21 by the court and shall issue an order pursuant to section
22 60-6,197.01. Such orders 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 fifteen
4 years from the date ordered by the court. The revocation order shall
5 require that the person not drive for a period of forty-five days,
6 after which the court may order that during the period of revocation
7 the person apply for an ignition interlock permit and installation of
8 an ignition interlock device issued pursuant to section 60-6,211.05
9 and shall issue an order pursuant to subdivision (1)(b) of section
10 60-6,197.01. Such order of probation or sentence suspension shall
11 also include, as conditions, the payment of a two-thousand-dollar
12 fine, confinement in the city or county jail for one hundred eighty
13 days, and, upon release from such confinement, the use of a
14 continuous alcohol monitoring device and abstention from alcohol use
15 at all times for no less than one hundred eighty days; and

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

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

5 If the court places such person on probation or suspends
6 the sentence for any reason, the court shall, as one of the
7 conditions of probation or sentence suspension, order that the
8 operator's license of such person be revoked for a period of fifteen
9 years from the date ordered by the court. The revocation order shall
10 require that the person not drive for a period of forty-five days,
11 after which the court may order that during the period of revocation
12 the person apply for an ignition interlock permit and installation of
13 an ignition interlock device issued pursuant to section 60-6,211.05
14 and shall issue an order pursuant to subdivision (1)(b) of section
15 60-6,197.01. Such order of probation or sentence suspension shall
16 also include, as conditions, the payment of a two-thousand-dollar
17 fine, confinement in the city or county jail for one hundred eighty
18 days, and, upon release from such confinement, the use of a
19 continuous alcohol monitoring device and abstention from alcohol use
20 at all times for no less than one hundred eighty days.

21 Sec. 5. Section 60-6,211.05, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 60-6,211.05 (1) If an order is granted under section
24 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, the
25 court may order that the defendant install an ignition interlock

1 device of a type approved by the Director of Motor Vehicles on each
2 motor vehicle operated by the defendant during the period of
3 revocation. Upon sufficient evidence of installation, the defendant
4 may apply to the director for an ignition interlock permit pursuant
5 to section 60-4,118.06. The device shall, without tampering or the
6 intervention of another person, prevent the defendant from operating
7 the motor vehicle when the defendant has an alcohol concentration
8 greater than three-hundredths of one gram or more by weight of
9 alcohol per one hundred milliliters of his or her blood or three-
10 hundredths of one gram or more by weight of alcohol per two hundred
11 ten liters of his or her breath. The Department of Motor Vehicles
12 shall issue an ignition interlock permit to the defendant under
13 section 60-4,118.06 only upon sufficient proof that a defendant has
14 installed an ignition interlock device on any motor vehicle that the
15 defendant will operate during his or her release.

16 (2) If the court orders installation of an ignition
17 interlock device and issuance of an ignition interlock permit
18 pursuant to subsection (1) of this section, the court may also order
19 the use of a continuous alcohol monitoring device and abstention from
20 alcohol use at all times. The device shall, without tampering or the
21 intervention of another person, test and record the alcohol
22 consumption level of the defendant on a periodic basis and transmit
23 such information to probation authorities.

24 (3) Any order issued by the court pursuant to this
25 section shall not take effect until the defendant is eligible to

1 operate a motor vehicle pursuant to subsection (8) of section
2 60-498.01. A person shall be eligible to be issued an ignition
3 interlock permit allowing operation of a motor vehicle equipped with
4 an ignition interlock device if he or she is not subject to any other
5 suspension, cancellation, required no-driving period, or period of
6 revocation and has successfully completed the ignition interlock
7 permit application process. The Department of Motor Vehicles shall
8 review its records and the driving record abstract of any person who
9 applies for an ignition interlock permit allowing operation of a
10 motor vehicle equipped with an ignition interlock device to determine
11 (a) the applicant's eligibility for an ignition interlock permit, (b)
12 the applicant's previous convictions under section 60-6,196,
13 60-6,197, or 60-6,197.06 or any previous administrative license
14 revocation, if any, and (c) if the applicant is subject to any
15 required no-drive periods before the ignition interlock permit may be
16 issued., ~~and (d) the permitted driving uses to be allowed to that~~
17 ~~person on his or her ignition interlock permit.~~

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

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

1 of time as determined by the court not to exceed the maximum term of
2 revocation which the court could have imposed according to the nature
3 of the violation and shall allow operation by the defendant of only
4 an ignition-interlock-equipped motor vehicle, ~~only (i) if the~~
5 ~~defendant has no previous conviction under section 60-6,196,~~
6 ~~60-6,197, or 60-6,197.06 and no previous administrative license~~
7 ~~revocation, to and from his or her residence for purposes of his or~~
8 ~~her employment, his or her school, a substance abuse treatment~~
9 ~~program, his or her probation officer, his or her continuing health~~
10 ~~care or the continuing health care of another person who is dependent~~
11 ~~upon the person, his or her court ordered community service~~
12 ~~responsibilities, or an ignition interlock service facility or (ii)~~
13 ~~if the defendant has a previous conviction under section 60-6,196,~~
14 ~~60-6,197, or 60-6,197.06 or a previous administrative license~~
15 ~~revocation, to and from his or her residence, his or her place of~~
16 ~~employment, his or her school, a substance abuse treatment program,~~
17 ~~or an ignition interlock service facility.~~

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

22 (5) 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 (6) 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 by
8 consuming alcohol while required to use such device, he or she shall
9 have his or her ignition interlock permit revoked and be unable to
10 apply for reinstatement for the duration of the revocation period
11 imposed by the court.

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

16 (8)(a) The costs incurred in order to comply with the
17 ignition interlock requirements of this section shall be paid
18 directly to the ignition interlock provider by the person complying
19 with an order for an ignition interlock permit and installation of an
20 ignition interlock device.

21 (b) If the Department of Motor Vehicles has determined
22 the person to be indigent and incapable of paying for the cost of
23 installation, removal, or maintenance of the ignition interlock
24 device in accordance with this section, such costs shall be paid out
25 of the Department of Motor Vehicles Ignition Interlock Fund if such

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

12 (9)(a)(i) An ignition interlock service facility shall
13 notify the appropriate district probation office or the appropriate
14 court, as applicable, of any evidence of tampering with or
15 circumvention of an ignition interlock device, or any attempts to do
16 so, when the facility becomes aware of such evidence. Failure of the
17 facility to provide notification as provided in this subdivision is a
18 Class V misdemeanor.

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

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

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

1 Sec. 6. This act becomes operative on July 1, 2013.

2 Sec. 7. Original section 60-6,197.01, Reissue Revised
3 Statutes of Nebraska, and sections 60-498.02, 60-4,118.06,
4 60-6,197.03, and 60-6,211.05, Revised Statutes Cumulative Supplement,
5 2012, are repealed.

6 Sec. 8. Since an emergency exists, this act takes effect
7 when passed and approved according to law.