

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 668

Introduced by Krist, 10.

Read first time January 06, 2016

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor vehicles; to amend sections
2 60-4,120.01 and 79-609, Reissue Revised Statutes of Nebraska,
3 sections 60-6,179.01 and 60-6,268, Revised Statutes Cumulative
4 Supplement, 2014, and sections 60-4,123, 60-4,124, 60-6,265,
5 60-6,267, and 60-6,270, Revised Statutes Supplement, 2015; to change
6 provisional operator's permit restrictions from secondary offenses
7 to primary offenses; to change certain uses of interactive wireless
8 communication devices from secondary offenses to primary offenses as
9 prescribed; to update references to certain federal provisions; to
10 eliminate as a secondary action certain occupant protection system
11 enforcement requirements; to repeal the original sections; and to
12 outright repeal section 60-6,271, Reissue Revised Statutes of
13 Nebraska.

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

1 Section 1. Section 60-4,120.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-4,120.01 (1)(a) Any person who is at least sixteen years of age
4 but less than eighteen years of age may be issued a provisional
5 operator's permit by the Department of Motor Vehicles. The provisional
6 operator's permit shall expire on the applicant's eighteenth birthday.

7 (b) No provisional operator's permit shall be issued to any person
8 unless such person:

9 (i) Has possessed a valid LPD-learner's permit, LPE-learner's
10 permit, or SCP-school permit for at least a six-month period beginning on
11 the date of issuance of such person's LPD-learner's permit, LPE-learner's
12 permit, or SCP-school permit; and

13 (ii) Has not accumulated three or more points pursuant to section
14 60-4,182 during the six-month period immediately preceding the date of
15 the application for the provisional operator's permit.

16 (c) The requirements for the provisional operator's permit
17 prescribed in subdivisions (2)(a) and (b) of this section may be
18 completed prior to the applicant's sixteenth birthday. A person may apply
19 for a provisional operator's permit and take the driving test and the
20 written examination, if required, at any time within sixty days prior to
21 his or her sixteenth birthday upon proof of age in the manner provided in
22 section 60-484.

23 (2) In order to obtain a provisional operator's permit, the
24 applicant shall present (a)(i) proof of successful completion of a
25 department-approved driver safety course which includes behind-the-wheel
26 driving specifically emphasizing (A) the effects of the consumption of
27 alcohol on a person operating a motor vehicle, (B) occupant protection
28 systems, (C) risk assessment, and (D) railroad crossing safety and (ii)
29 proof of successful completion of a written examination and driving test
30 administered by a driver safety course instructor or (b) a certificate in
31 a form prescribed by the department, signed by a parent, guardian, or

1 licensed driver at least twenty-one years of age, verifying that the
2 applicant has completed fifty hours of lawful motor vehicle operation
3 including at least ten hours of motor vehicle operation between sunset
4 and sunrise, under conditions that reflect department-approved driver
5 safety course curriculum, with a parent, guardian, or adult at least
6 twenty-one years of age, who has a current Nebraska operator's license or
7 who is licensed in another state. If the applicant presents such a
8 certificate, the applicant shall be required to successfully complete a
9 driving test administered by the department. The written examination
10 shall be waived if the applicant has been issued a Nebraska LPD-learner's
11 permit or has been issued a Nebraska LPE-learner's permit and such permit
12 is valid or has been expired for no more than one year. However, the
13 department shall not waive the written examination if the provisional
14 operator's permit being applied for contains a class or endorsement which
15 is different from the class or endorsement of the LPD-learner's or LPE-
16 learner's permit. Upon presentation by the applicant of a form prescribed
17 by the department showing successful completion of the driver safety
18 course, the written examination and driving test may be waived. Upon
19 presentation of the certificate, the written examination but not the
20 driving test may be waived. The examiner shall waive the written
21 examination and the driving test if the applicant has been issued a
22 school permit and such permit is valid or has expired no more than one
23 year prior to application. The written examination shall not be waived if
24 the provisional operator's permit being applied for contains a class or
25 endorsement which is different from the class or endorsement of the
26 school permit.

27 (3)(a) The holder of a provisional operator's permit shall only
28 operate a motor vehicle on the highways of this state during the period
29 beginning at 6 a.m. and ending at 12 midnight except when he or she is en
30 route to or from his or her residence to his or her place of employment
31 or a school activity. The holder of a provisional operator's permit may

1 operate a motor vehicle on the highways of this state at any hour of the
2 day or night if accompanied by a parent, guardian, or adult at least
3 twenty-one years of age, who has a current Nebraska operator's license or
4 who is licensed in another state.

5 (b) The holder of a provisional operator's permit shall only operate
6 a motor vehicle on the highways of this state during the first six months
7 of holding the permit with no more than one passenger who is not an
8 immediate family member and who is under nineteen years of age.

9 (c) The holder of a provisional operator's permit shall not use any
10 type of interactive wireless communication device while operating a motor
11 vehicle on the highways of this state.

12 ~~(d) Enforcement of subdivisions (a), (b), and (c) of this subsection~~
13 ~~shall be accomplished only as a secondary action when the holder of the~~
14 ~~provisional operator's permit has been cited or charged with a violation~~
15 ~~of some other law.~~

16 (4) The county treasurer shall collect the fee and surcharge
17 prescribed in section 60-4,115 for the issuance of each provisional
18 operator's permit.

19 Sec. 2. Section 60-4,123, Revised Statutes Annual Supplement, 2015,
20 is amended to read:

21 60-4,123 (1) Any person who is at least fifteen years of age may
22 apply for an LPD-learner's permit from the department. In order to obtain
23 an LPD-learner's permit, the applicant shall successfully complete a
24 written examination. A person may take the written examination beginning
25 sixty days prior to his or her fifteenth birthday but shall not be issued
26 a permit until he or she is fifteen years of age. The written examination
27 may be waived for any person who has been issued an LPE-learner's permit,
28 LPD-learner's permit, or SCP-school permit that has been expired for no
29 more than one year.

30 (2) Upon successful completion of the written examination and the
31 payment of a fee and surcharge as prescribed in section 60-4,115, the

1 applicant shall be issued an LPD-learner's permit as provided in section
2 60-4,113. The permit shall be valid for twelve months.

3 (3)(a) The holder of an LPD-learner's permit shall only operate a
4 motor vehicle on the highways of this state if he or she is accompanied
5 at all times by a licensed operator who is at least twenty-one years of
6 age and who has been licensed by this state or another state and if (i)
7 for all motor vehicles other than autocycles, motorcycles, or mopeds, he
8 or she is actually occupying the seat beside the licensed operator, (ii)
9 in the case of an autocycle, he or she is actually occupying the seat
10 beside or in front of the licensed operator, or (iii) in the case of a
11 motorcycle or moped, he or she is within visual contact of and under the
12 supervision of, in the case of a motorcycle, a licensed motorcycle
13 operator or, in the case of a moped, a licensed motor vehicle operator.

14 (b) The holder of an LPD-learner's permit shall not use any type of
15 interactive wireless communication device while operating a motor vehicle
16 on the highways of this state. ~~Enforcement of this subdivision shall be
17 accomplished only as a secondary action when the holder of the LPD-
18 learner's permit has been cited or charged with a violation of some other
19 law.~~

20 (4) The county treasurer shall collect the fee and surcharge
21 prescribed in section 60-4,115 for the issuance of each LPD-learner's
22 permit.

23 Sec. 3. Section 60-4,124, Revised Statutes Annual Supplement, 2015,
24 is amended to read:

25 60-4,124 (1) A person who is younger than sixteen years and three
26 months of age but is older than fourteen years and two months of age may
27 be issued a school permit if such person lives a distance of one and one-
28 half miles or more from the school he or she attends and either resides
29 outside a city of the metropolitan, primary, or first class or attends a
30 school which is outside a city of the metropolitan, primary, or first
31 class and if such person has held an LPE-learner's permit for two months.

1 A school permit shall not be issued until such person has demonstrated
2 that he or she is capable of successfully operating a motor vehicle,
3 moped, or motorcycle and has in his or her possession an issuance
4 certificate authorizing the county treasurer to issue a school permit. In
5 order to obtain an issuance certificate, the applicant shall present (a)
6 proof of successful completion of a department-approved driver safety
7 course which includes behind-the-wheel driving specifically emphasizing
8 (i) the effects of the consumption of alcohol on a person operating a
9 motor vehicle, (ii) occupant protection systems, (iii) risk assessment,
10 and (iv) railroad crossing safety and (b)(i) proof of successful
11 completion of a written examination and driving test administered by a
12 driver safety course instructor or (ii) a certificate in a form
13 prescribed by the department, signed by a parent, guardian, or licensed
14 driver at least twenty-one years of age, verifying that the applicant has
15 completed fifty hours of lawful motor vehicle operation, under conditions
16 that reflect department-approved driver safety course curriculum, with a
17 parent, guardian, or adult at least twenty-one years of age, who has a
18 current Nebraska operator's license or who is licensed in another state.
19 The department may waive the written examination if the applicant has
20 been issued an LPE-learner's permit or LPD-learner's permit and if such
21 permit is valid or has expired no more than one year prior to
22 application. The written examination shall not be waived if the permit
23 being applied for contains a class or endorsement which is different from
24 the class or endorsement of the LPE-learner's permit.

25 (2) A person holding a school permit may operate a motor vehicle,
26 moped, or motorcycle or an autocycle:

27 (a) To and from where he or she attends school and between schools
28 of enrollment over the most direct and accessible route by the nearest
29 highway from his or her place of residence to transport such person or
30 any family member who resides with such person to attend duly scheduled
31 courses of instruction and extracurricular or school-related activities

1 at the school he or she attends; or

2 (b) Under the personal supervision of a licensed operator. Such
3 licensed operator shall be at least twenty-one years of age and licensed
4 by this state or another state and shall (i) for all motor vehicles other
5 than autocycles, motorcycles, or mopeds, actually occupy the seat beside
6 the permitholder, (ii) in the case of an autocycle, actually occupy the
7 seat beside or behind the permitholder, or (iii) in the case of a
8 motorcycle or moped, if the permitholder is within visual contact of and
9 under the supervision of, in the case of a motorcycle, a licensed
10 motorcycle operator or, in the case of a moped, a licensed motor vehicle
11 operator.

12 (3) The holder of a school permit shall not use any type of
13 interactive wireless communication device while operating a motor vehicle
14 on the highways of this state. ~~Enforcement of this subsection shall be~~
15 ~~accomplished only as a secondary action when the holder of the school~~
16 ~~permit has been cited or charged with a violation of some other law.~~

17 (4) A person who is younger than sixteen years of age but is over
18 fourteen years of age may be issued an LPE-learner's permit, which permit
19 shall be valid for a period of three months. An LPE-learner's permit
20 shall not be issued until such person successfully completes a written
21 examination prescribed by the department and demonstrates that he or she
22 has sufficient powers of eyesight to safely operate a motor vehicle,
23 moped, or motorcycle or an autocycle.

24 (5)(a) While holding the LPE-learner's permit, the person may
25 operate a motor vehicle on the highways of this state if (i) for all
26 motor vehicles other than autocycles, motorcycles, or mopeds, he or she
27 has seated next to him or her a person who is a licensed operator, (ii)
28 in the case of an autocycle, he or she has seated next to or behind him
29 or her a person who is a licensed operator, or (iii) in the case of a
30 motorcycle or moped, he or she is within visual contact of and is under
31 the supervision of a person who, in the case of a motorcycle, is a

1 licensed motorcycle operator or, in the case of a moped, is a licensed
2 motor vehicle operator. Such licensed motor vehicle or motorcycle
3 operator shall be at least twenty-one years of age and licensed by this
4 state or another state.

5 (b) The holder of an LPE-learner's permit shall not use any type of
6 interactive wireless communication device while operating a motor vehicle
7 on the highways of this state. ~~Enforcement of this subdivision shall be
8 accomplished only as a secondary action when the holder of the LPE-
9 learner's permit has been cited or charged with a violation of some other
10 law.~~

11 (6) The county treasurer shall collect the fee and surcharge
12 prescribed in section 60-4,115 from each successful applicant for a
13 school or LPE-learner's permit. All school permits shall be subject to
14 impoundment or revocation under the terms of section 60-496. Any person
15 who violates the terms of a school permit shall be guilty of an
16 infraction and shall not be eligible for another school, farm, LPD-
17 learner's, or LPE-learner's permit until he or she has attained the age
18 of sixteen years.

19 (7) Any person who holds a permit issued under this section and has
20 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)
21 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197, or
22 60-6,197.06 shall not be eligible for an ignition interlock permit.

23 Sec. 4. Section 60-6,179.01, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 60-6,179.01 (1) This section does not apply to an operator of a
26 commercial motor vehicle if section 60-6,179.02 applies.

27 (2) Except as otherwise provided in subsection (3) of this section,
28 no person shall use a handheld wireless communication device to read a
29 written communication, manually type a written communication, or send a
30 written communication while operating a motor vehicle which is in motion.

31 (3) The prohibition in subsection (2) of this section does not apply

1 to:

2 (a) A person performing his or her official duties as a law
3 enforcement officer, a firefighter, an ambulance driver, or an emergency
4 medical technician; or

5 (b) A person operating a motor vehicle in an emergency situation.

6 ~~(4) Enforcement of this section by state or local law enforcement~~
7 ~~agencies shall be accomplished only as a secondary action when a driver~~
8 ~~of a motor vehicle has been cited or charged with a traffic violation or~~
9 ~~some other offense.~~

10 (4) ~~(5)~~ Any person who violates this section shall be guilty of a
11 traffic infraction. Any person who is found guilty of a traffic
12 infraction under this section shall be assessed points on his or her
13 motor vehicle operator's license pursuant to section 60-4,182 and shall
14 be fined:

15 (a) Two hundred dollars for the first offense;

16 (b) Three hundred dollars for a second offense; and

17 (c) Five hundred dollars for a third and subsequent offense.

18 (6) For purposes of this section:

19 (a) Commercial motor vehicle has the same meaning as in section
20 75-362;

21 (b)(i) Handheld wireless communication device means any device that
22 provides for written communication between two or more parties and is
23 capable of receiving, displaying, or transmitting written communication.

24 (ii) Handheld wireless communication device includes, but is not
25 limited to, a mobile or cellular telephone, a text messaging device, a
26 personal digital assistant, a pager, or a laptop computer.

27 (iii) Handheld wireless communication device does not include an
28 electronic device that is part of the motor vehicle or permanently
29 attached to the motor vehicle or a handsfree wireless communication
30 device; and

31 (c) Written communication includes, but is not limited to, a text

1 message, an instant message, electronic mail, and Internet web sites.

2 Sec. 5. Section 60-6,265, Revised Statutes Annual Supplement, 2015,
3 is amended to read:

4 60-6,265 For purposes of sections 60-6,266 to 60-6,273:

5 (1) Occupant protection system means a system utilizing a lap belt,
6 a shoulder belt, or any combination of belts installed in a motor vehicle
7 which (a) restrains drivers and passengers and (b) conforms to Federal
8 Motor Vehicle Safety Standards, 49 C.F.R. 571.207, 571.208, 571.209, and
9 571.210, as such standards existed on January 1, 2016 ~~2009~~, or to the
10 federal motor vehicle safety standards for passenger restraint systems
11 applicable for the motor vehicle's model year; and

12 (2) Three-point safety belt system means a system utilizing a
13 combination of a lap belt and a shoulder belt installed in a motor
14 vehicle which restrains drivers and passengers.

15 Sec. 6. Section 60-6,267, Revised Statutes Annual Supplement, 2015,
16 is amended to read:

17 60-6,267 (1) Any person in Nebraska who drives any motor vehicle
18 which has or is required to have an occupant protection system or a
19 three-point safety belt system shall ensure that all children up to six
20 years of age being transported by such vehicle use a child passenger
21 restraint system of a type which meets Federal Motor Vehicle Safety
22 Standard 213 as developed by the National Highway Traffic Safety
23 Administration, as such standard existed on January 1, 2016 ~~2009~~, and
24 which is correctly installed in such vehicle.

25 (2) Any person in Nebraska who drives any motor vehicle which has or
26 is required to have an occupant protection system or a three-point safety
27 belt system shall ensure that all children six years of age and less than
28 eighteen years of age being transported by such vehicle use an occupant
29 protection system.

30 (3) Subsections (1) and (2) of this section apply to autocycles and
31 to every motor vehicle which is equipped with an occupant protection

1 system or is required to be equipped with restraint systems pursuant to
2 Federal Motor Vehicle Safety Standard 208, as such standard existed on
3 January 1, 2016 ~~2009~~, except taxicabs, mopeds, motorcycles, and any motor
4 vehicle designated by the manufacturer as a 1963 year model or earlier
5 which is not equipped with an occupant protection system.

6 (4) Whenever any licensed physician determines, through accepted
7 medical procedures, that use of a child passenger restraint system by a
8 particular child would be harmful by reason of the child's weight,
9 physical condition, or other medical reason, the provisions of subsection
10 (1) or (2) of this section shall be waived. The driver of any vehicle
11 transporting such a child shall carry on his or her person or in the
12 vehicle a signed written statement of the physician identifying the child
13 and stating the grounds for such waiver.

14 (5) The drivers of authorized emergency vehicles shall not be
15 subject to the requirements of subsection (1) or (2) of this section when
16 operating such authorized emergency vehicles pursuant to their
17 employment.

18 (6) A driver of a motor vehicle shall not be subject to the
19 requirements of subsection (1) or (2) of this section if the motor
20 vehicle is being operated in a parade or exhibition and the parade or
21 exhibition is being conducted in accordance with applicable state law and
22 local ordinances and resolutions.

23 (7) The Department of Roads shall develop and implement an ongoing
24 statewide public information and education program regarding the use of
25 child passenger restraint systems and occupant protection systems and the
26 availability of distribution and discount programs for child passenger
27 restraint systems.

28 (8) All persons being transported by a motor vehicle operated by a
29 holder of a provisional operator's permit or a school permit shall use
30 such motor vehicle's occupant protection system or a three-point safety
31 belt system.

1 Sec. 7. Section 60-6,268, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 60-6,268 ~~(1)~~ A person violating any provision of subsection (1) or
4 (2) of section 60-6,267 shall be guilty of an infraction as defined in
5 section 29-431 and shall be fined twenty-five dollars for each violation.
6 The failure to provide a child restraint system for more than one child
7 in the same vehicle at the same time, as required in such subsection,
8 shall not be treated as a separate offense.

9 ~~(2) Enforcement of subsection (2) or (8) of section 60-6,267 shall~~
10 ~~be accomplished only as a secondary action when an operator of a motor~~
11 ~~vehicle has been cited or charged with a violation or some other offense~~
12 ~~unless the violation involves a person under the age of eighteen years~~
13 ~~riding in or on any portion of the vehicle not designed or intended for~~
14 ~~the use of passengers when the vehicle is in motion.~~

15 Sec. 8. Section 60-6,270, Revised Statutes Annual Supplement, 2015,
16 is amended to read:

17 60-6,270 (1) Except as provided in subsection (2) or (3) of this
18 section, no driver shall operate a motor vehicle upon a highway or street
19 in this state unless the driver and each ~~front-seat~~ occupant in the motor
20 vehicle are wearing occupant protection systems and all occupant
21 protection systems worn are properly adjusted and fastened.

22 (2) Except as otherwise provided in subsection (3) of this section,
23 no driver shall operate an autocycle upon a highway or street of this
24 state unless the driver is wearing a three-point safety belt system and
25 it is properly adjusted and fastened.

26 (3) The following persons shall not be required to wear an occupant
27 protection system or a three-point safety belt system:

28 (a) A person who possesses written verification from a physician
29 that the person is unable to wear an occupant protection system or a
30 three-point safety belt system for medical reasons;

31 (b) A rural letter carrier of the United States Postal Service while

1 performing his or her duties as a rural letter carrier between the first
2 and last delivery points; and

3 (c) A member of an emergency medical service while involved in
4 patient care.

5 (4) For purposes of this section, motor vehicle means a vehicle
6 required by section 60-6,266 to be equipped with an occupant protection
7 system or a three-point safety belt system.

8 Sec. 9. Section 79-609, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 79-609 (1) The school board or board of education, after
11 consultation with a member of the Nebraska State Patrol, shall determine
12 the number of passengers that may be safely transported in each bus.

13 (2)(a) Any company or agency that provides transportation of pupils
14 by school bus and contracts directly with the pupils or their parents,
15 (b) the school board or board of education of the public schools, and (c)
16 the governing authority of any private, denominational, or parochial
17 school in this state shall provide, at least twice during each school
18 year to each pupil who is transported in a school bus, instruction in
19 safe riding practice and participation in emergency evacuation drills.

20 (3) The operator of a school bus equipped with an occupant
21 protection system as defined in section 60-6,265 shall wear such system
22 whenever the vehicle is in motion.

23 (4) The operator of a school bus, including any school bus which
24 transports pupils by direct contract with the pupils or their parents and
25 not owned by or under contract with a school district or nonpublic
26 school, shall not, whenever the vehicle is in motion, use any type of
27 interactive wireless communication device as defined in section
28 60-470.02. This subsection does not apply to any dispatch communication
29 device or to an operator of a school bus if section 60-6,179.02 applies.

30 Sec. 10. Original sections 60-4,120.01 and 79-609, Reissue Revised
31 Statutes of Nebraska, sections 60-6,179.01 and 60-6,268, Revised Statutes

1 Cumulative Supplement, 2014, and sections 60-4,123, 60-4,124, 60-6,265,
2 60-6,267, and 60-6,270, Revised Statutes Supplement, 2015, are repealed.

3 Sec. 11. The following section is outright repealed: Section
4 60-6,271, Reissue Revised Statutes of Nebraska.