

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 40

Introduced by Hilkemann, 4.

Read first time January 10, 2019

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor vehicles; to amend sections
2 60-4,120.01, 60-4,123, 60-4,124, and 60-6,179.01, Revised Statutes
3 Cumulative Supplement, 2018; to change certain uses of interactive
4 wireless communication devices from secondary offenses to primary
5 offenses as prescribed; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-4,120.01, Revised Statutes Cumulative
2 Supplement, 2018, 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. Licensing staff 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) and ~~(b)~~ ~~and~~ ~~(c)~~ of this
13 subsection shall be accomplished only as a secondary action when the
14 holder of the provisional operator's permit has been cited or charged
15 with a violation of some other law.

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

19 Sec. 2. Section 60-4,123, Revised Statutes Cumulative Supplement,
20 2018, 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, other than an autocycle, or a moped, he or she is within
12 visual contact of and under the supervision of, in the case of a
13 motorcycle, a licensed motorcycle operator or, in the case of a moped, a
14 licensed motor vehicle operator.

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

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

24 Sec. 3. Section 60-4,124, Revised Statutes Cumulative Supplement,
25 2018, is amended to read:

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

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

1 case of a motorcycle, is a licensed motorcycle operator or, in the case
2 of a moped, is a licensed motor vehicle operator. Such licensed motor
3 vehicle or motorcycle operator shall be at least twenty-one years of age
4 and licensed by this 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) Department personnel or the county treasurer shall collect the
12 fee and surcharge prescribed in section 60-4,115 from each successful
13 applicant for a school or LPE-learner's permit. All school permits shall
14 be subject to impoundment or revocation under the terms of section
15 60-496. Any person who violates the terms of a school permit shall be
16 guilty of an infraction and shall not be eligible for another school,
17 farm, LPD-learner's, or LPE-learner's permit until he or she has attained
18 the age 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 2018, 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 (5) ~~(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. Original sections 60-4,120.01, 60-4,123, 60-4,124, and

3 60-6,179.01, Revised Statutes Cumulative Supplement, 2018, are repealed.