

LEGISLATIVE BILL 309

Approved by the Governor April 18, 1998

Introduced by Transportation Committee: Kristensen, 37, Chairperson; Bruning, 3; Coordsen, 32; Elmer, 44; Matzke, 47; Dw. Pedersen, 39; C. Peterson, 35; Robinson, 16; and Crosby, 29; Abboud, 12

AN ACT relating to motor vehicles; to amend sections 28-106, 29-119, 60-490, 60-4,110, 60-4,150, 60-6,196, 60-6,206, 60-6,208, 60-6,209, 60-6,211.01, 60-6,211.02, 60-6,211.03, 60-6,211.05, 83-1,127, and 83-1,129, Reissue Revised Statutes of Nebraska, sections 60-4,115, 60-4,118, 60-4,120, 60-601, 60-6,197, 60-6,205, and 83-1,135, Revised Statutes Supplement, 1996, and sections 60-4,146.01, 60-4,148, and 60-4,181, Revised Statutes Supplement, 1997; to change provisions relating to operator's licenses and state identification cards and fees; to provide and change provisions relating to penalties for driving while intoxicated, operator's license suspension, revocation, impoundment, and reinstatement, and motor vehicle seizure and impoundment; to provide powers and duties for the Department of Motor Vehicles and the Board of Pardons; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 28-106, Reissue Revised Statutes of Nebraska, is amended to read:

28-106. (1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

- Class I misdemeanor..... Maximum -- not more than one year imprisonment, or one thousand dollars fine, or both  
Minimum -- none
- Class II misdemeanor..... Maximum -- six months imprisonment, or one thousand dollars fine, or both  
Minimum -- none
- Class III misdemeanor..... Maximum -- three months imprisonment, or five hundred dollars fine, or both  
Minimum -- none
- Class IIIA misdemeanor.... Maximum -- seven days imprisonment, five hundred dollars fine, or both  
Minimum -- none
- Class IV misdemeanor..... Maximum -- no imprisonment, five hundred dollars fine  
Minimum -- one hundred dollars fine
- Class V misdemeanor..... Maximum -- no imprisonment, one hundred dollars fine  
Minimum -- none
- Class W misdemeanor..... Driving while intoxicated -- implied consent refusal
  - First conviction  
Maximum -- sixty days imprisonment and five hundred dollars fine
  - Mandatory minimum -- seven days imprisonment and ~~two~~ four hundred dollars fine
  - Second conviction  
Maximum -- ninety days imprisonment and five hundred dollars fine
  - Mandatory minimum -- thirty days imprisonment and five hundred dollars fine
  - Third conviction  
Maximum -- one year imprisonment and five six hundred dollars fine
  - Mandatory minimum -- ninety days imprisonment and five six hundred dollars fine
  - Fourth or subsequent conviction  
Maximum -- five years imprisonment and ten thousand dollars fine
  - Mandatory minimum -- one year imprisonment and

**five hundred dollars fine**

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor or for a combined term of one year or more in the event of conviction of more than one misdemeanor offense;

(b) If the sentence is to be served concurrently with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term or combined terms of six months or more.

Sec. 2. Section 29-119, Reissue Revised Statutes of Nebraska, is amended to read:

29-119. For purposes of sections 23-1201, 29-119, 29-120, and 29-2261, unless the context otherwise requires:

(1) A plea agreement shall mean that as a result of a discussion between the defense counsel and the prosecuting attorney:

(a) A charge is to be dismissed or reduced; or

(b) A defendant, if he or she pleads guilty to a charge, may receive less than the maximum penalty permitted by law; and

(2) Victim shall mean a person who, as a result of a homicide as defined in sections 28-302 to 28-306, a first degree sexual assault as defined in section 28-319, a first degree assault as defined in section 28-308, a sexual assault of a child as defined in section 28-320.01, a second degree assault as defined in section 28-309, a first degree false imprisonment as defined in section 28-314, a second degree sexual assault as defined in section 28-320, or a robbery as defined in section 28-324, has had a personal confrontation with the offender and shall also include a person who has suffered serious bodily injury as defined in section 28-109 as a result of a motor vehicle accident when the driver was charged with a Class W misdemeanor as provided in violation of section 60-6,196 or 60-6,197 or with violation of a city or village ordinance enacted in conformance with either of such sections. In the case of a homicide, victim shall mean at least one family representative but shall not include the alleged perpetrator of the homicide. In the case of a sexual assault of a child, victim shall mean the child victim and the parents, guardians, or duly appointed legal representative of the child victim but shall not include the alleged perpetrator of the sexual assault.

Sec. 3. Section 60-490, Reissue Revised Statutes of Nebraska, is amended to read:

60-490. (1) Except for operator's licenses issued to persons required to use bioptic or telescopic lenses as otherwise provided in subsection (2) or (6) of this section and except for operators' licenses issued to persons less than twenty-one years of age, all operators' licenses contemplated by issued pursuant to the Motor Vehicle Operator's License Act shall prior to January 1, 1999, expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by four. An operator's license issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday.

(2) Operators' Operator's licenses issued to persons required to use bioptic or telescopic lenses as provided in section 60-4,118 shall expire annually on the licensee's birthday.

(3) Except as otherwise provided in subsection (6) of this section and except for state identification cards issued to persons less than twenty-one years of age, all state identification cards issued on or after January 1, 1990, shall and prior to January 1, 1999, expire on the cardholder's birthday in the first year after issuance in which his or her age is divisible by four. Except for state identification cards issued to persons less than twenty-one years of age, all state identification cards issued on or after January 1, 1999, expire on the cardholder's birthday in the fifth year after issuance. A state identification card issued to a person who is less than twenty-one years of age expires on his or her twenty-first birthday.

(4) Except as otherwise provided in subsection (2) of this section and except for operators' licenses issued to persons less than twenty-one years of age, operators' licenses issued pursuant to the Motor Vehicle Operator's License Act on or after January 1, 1999, expire on the licensee's birthday in the fifth year after issuance. An operator's license issued to a person less than twenty-one years of age expires on his or her twenty-first birthday. Beginning December 1, 2003, the Department of Motor Vehicles shall

mail out a renewal notice for each operator's license at least thirty days before the expiration of the operator's license.

(5) The expiration date shall be stated on each operator's license or state identification card. All licenses and cards issued to persons who are twenty-one years of age or older which expire under this section may be renewed within a ninety-day period before the expiration date. The Any person who is twenty-one years of age or older and who is the holder of a valid operator's license or state identification card may renew his or her license or card prior to the ninety-day period before the expiration date on such license or card if such applicant furnishes proof that he or she will be absent from the state during the ninety-day period prior to such expiration date. A person who is twenty years of age may apply for and be issued an operator's license or a state identification card within ten days prior to his or her twenty-first birthday.

(6) In order to ease the transition to a system of five-year operators' licenses and five-year state identification cards, approximately twenty percent of the number of persons in each county whose operators' licenses or state identification cards expire in the years 1999, 2000, 2001, and 2002 shall have the expiration date of their operators' licenses or state identification cards extended to the year 2003. Such persons shall be chosen at random from a list of persons who are less than sixty-five years of age. Extension stickers for the operators' licenses or state identification cards of such persons shall be designed by the department. Beginning August 1, 1998, the department shall provide notice to and mail out or make available through the examiners of the department the extension stickers to the persons who have had the expiration date of their licenses or cards extended. The fee for each Class O or Class M operator's license or identification card extension sticker shall be three dollars and seventy-five cents per year of extension and the fee for each commercial driver's license extension sticker shall be ten dollars per year of extension. The fee shall be collected by the department and remitted to the State Treasurer. Eight dollars and twenty-five cents of each four-year extension fee, six dollars of each three-year extension fee, three dollars and twenty-five cents of each two-year extension fee, and one dollar of each one-year extension fee shall be credited to the General Fund. All remaining fees shall be credited to the Department of Motor Vehicles Cash Fund. For those persons who have had the expiration date of their operators' licenses or state identification cards extended, the department shall note such extended expiration date on its computerized records. This subsection does not apply to an operator's license or state identification card issued to a person less than twenty-one years of age.

Sec. 4. Section 60-4,110, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,110. (1) Every motor vehicle, regardless of the registered owner of the motor vehicle, being operated by a person whose operator's license has been suspended, or revoked, or impounded pursuant to a conviction or convictions for violation of section 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any court or an administrative order of the director is hereby declared a public nuisance. The ~~and~~ the motor vehicle may be seized upon the arrest of the operator of the motor vehicle and impounded in a reputable garage at the expense of the owner of the motor vehicle. If such operator's license is suspended, revoked, or impounded pursuant to section 60-6,196, 60-6,197, 60-6,205, 60-6,206, 60-6,211.01, or 60-6,211.02, the motor vehicle shall be impounded for not less than ten days nor more than thirty days. No motor vehicle impounded under this section shall be impounded for a period of time exceeding thirty days except as provided in subsection (3) of this section, until the complaint against the operator is finally determined except as otherwise provided in this section. The motor vehicle shall not be impounded for a period to exceed thirty days. Any motor vehicle so impounded shall be released to the holder of a bona fide lien on the motor vehicle, executed prior to such impounding, when possession of the motor vehicle is requested as provided by law by such lienholder for the purpose of foreclosing and satisfying his or her lien on the motor vehicle. Any motor vehicle so impounded may be released to the registered owner of the motor vehicle at any time by the impounding agency or by the court in which the complaint against the operator is pending, without expense to the owner of the motor vehicle, upon satisfactory showing to the court by affidavit or otherwise either that (1) such owner had not given actual or implied consent to such operator or (2) such owner, having made a reasonable effort to determine the facts, had nevertheless been misled into believing that such operator's license had not been suspended or revoked.

(2) Any motor vehicle impounded shall be released:

(a) To the holder of a bona fide lien on the motor vehicle executed

prior to such impoundment when possession of the motor vehicle is requested as provided by law by such lienholder for purposes of foreclosing and satisfying his or her lien on the motor vehicle;

(b) To the titled owner of the motor vehicle when the titled owner is a lessor. Upon learning the address or telephone number of the rental or leasing company which owns the motor vehicle, the impounding law enforcement agency shall immediately contact the company and inform it that the motor vehicle is available for the company to take possession; or

(c) To the registered owner, a registered co-owner, or a spouse of the owner upon good cause shown by an affidavit or otherwise to the court before which the complaint is pending against the operator that the impounded motor vehicle is essential to the livelihood of the owner, co-owner, or spouse or the dependents of such owner, co-owner, or spouse.

(3) Any person who, at the direction of a peace officer, tows and stores a motor vehicle pursuant to this section shall have a lien upon such motor vehicle while in his or her possession for reasonable towing and storage charges and shall have a right to retain such motor vehicle until such charges are paid.

(4) If the registered owner of a motor vehicle was not the operator of the motor vehicle whose actions caused the motor vehicle to be impounded, the registered owner of the motor vehicle may recover civilly from the operator of the motor vehicle all expenses incurred by reason of the impoundment. In the case of a criminal action, the court may order such operator of the motor vehicle to pay restitution to the registered owner in an amount equal to any expenses incurred with respect to impoundment.

Sec. 5. Section 60-4,115, Revised Statutes Supplement, 1996, is amended to read:

60-4,115. (1) The applications for operators' licenses, school permits, farm permits, LPD-learners' permits, or LPE-learners' permits shall be filed with the county treasurer who is required to transmit them weekly to the director.

(2) Except as provided in subsection (3) or (4) of this section, a The application shall be accompanied by a fee of fifteen dollars ~~eighteen dollars and seventy-five cents~~ shall be charged to from each successful applicant for an original or renewal Class O or M operator's license issued under the Motor Vehicle Operator's License Act. Three dollars and fifty ~~7~~ except that the fee for licenses which will be valid for one year or less shall be three dollars and seventy-five cents, the fee for licenses which will be valid for more than one year but less than two years shall be seven dollars and fifty cents, and the fee for licenses which will be valid for two years or more but less than three years shall be eleven dollars and twenty-five cents. Two dollars and seventy-five cents of each of the original and renewal fees for operators' licenses and twenty-five cents of each of the fees for school permits, farm permits, LPD-learners' permits, or LPE-learners' permits shall be credited immediately to the general fund of the county and shall be included by the county treasurer in his or her report of fees as provided by law. The county treasurer shall remit ~~four~~ five dollars of each of the original and renewal fees for Class O or M operator's licenses to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. ~~7~~ except that for licenses which will be valid for more than one year but less than two years, one dollar and fifty cents of each fee shall be credited to the fund, and for licenses which will be valid for two years or more but less than three years, two dollars and fifty cents of each fee shall be credited to the fund. An amount equal to ~~two~~ three dollars and fifty cents times the number of original or renewal Class M licenses issued pursuant to section 60-4,127 during the previous year shall be transferred to the Motorcycle Safety Education Fund. The balance of the original and renewal operator's license, school permit, farm permit, LPD-learner's permit, or LPE-learner's permit fees shall be remitted by the county treasurer to the State Treasurer and shall be credited to the General Fund.

(3) A fee of three dollars and seventy-five cents shall be charged to each successful applicant for an operator's license issued to persons required to use bioptic or telescopic lenses as provided in section 60-4,118. Two dollars and seventy-five cents of such fee shall be credited to the general fund of the county. The county treasurer shall remit the remainder of fee to the State Treasurer for credit to the General Fund.

(4) An application for an operator's license for a person under twenty-one years of age shall be accompanied by a fee of eighteen dollars and seventy-five cents from a successful applicant for an original or renewal Class O or M operator's license issued under the act, except that the fee for a license which will be valid for one year or less shall be three dollars and seventy-five cents, the fee for a license which will be valid for more than

one year but not more than two years shall be seven dollars and fifty cents, the fee for a license which will be valid for three years or less but more than two years shall be eleven dollars and twenty-five cents, and the fee for a license which will be valid for four years or less but more than three years shall be fifteen dollars. Two dollars and seventy-five cents of the original and renewal fee for such operator's license shall be credited immediately to the general fund of the county and shall be included by the county treasurer in his or her report of fees as provided by law. The county treasurer shall remit four dollars of the original and renewal fee for such operator's license to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund, except that for a license which is valid for one year or less, none of the fee shall be credited to the fund, for a license which is valid for more than one year but not more than two years, one dollar and fifty cents of the fee shall be credited to the fund, and for a license which is valid for three years or less but more than two years, two dollars and fifty cents of the fee shall be credited to the fund. An amount equal to two dollars and fifty cents times the number of such original or renewal Class M licenses issued pursuant to section 60-4.127 during the previous year shall be transferred to the Motorcycle Safety Education Fund. The balance of the original and renewal operator's license fee shall be remitted by the county treasurer to the State Treasurer and shall be credited to the General Fund.

Sec. 6. Section 60-4.118, Revised Statutes Supplement, 1996, is amended to read:

60-4.118. (1) No operator's license shall be granted to any applicant until such applicant satisfies the examiner that he or she possesses sufficient powers of eyesight to enable him or her to obtain a Class O license and to operate a motor vehicle on the highways of this state with a reasonable degree of safety. The Department of Motor Vehicles, with the advice of the Health Advisory Board, shall adopt and promulgate rules and regulations:

(a) Requiring a minimum acuity level of vision. Such level may be obtained through the use of standard eyeglasses, contact lenses, or bioptic or telescopic lenses which are specially constructed vision correction devices which include a lens system attached to or used in conjunction with a carrier lens; and

(b) Requiring a minimum field of vision. Such field of vision may be obtained through standard eyeglasses, contact lenses, or the carrier lens of the bioptic or telescopic lenses.

(2) If a vision aid is used by the applicant to meet the vision requirements of this section, the operator's license of the applicant shall be restricted to the use of such vision aid when operating the motor vehicle. If the applicant fails to meet the vision requirements, the examiner shall require the applicant to present an optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant within ninety days of the applicant's license examination. If the vision reading meets the vision requirements prescribed by the department, the vision requirements of this section shall have been met.

(3) If the ~~applicant~~ applicant for an operator's license discloses that ~~the applicant for such license suffers from~~ he or she has any other physical impairment which may affect the safety of operation by such applicant of a motor vehicle, the examiner shall require the applicant to show cause why such license should be granted and, through such personal examination and demonstration as may be prescribed by the director with the advice of the Health Advisory Board, to show the necessary ability to safely operate a motor vehicle on the highways. The director may also require the person to appear before the board or a designee of the board. If the examiner, board, or designee is then satisfied that such applicant has the ability to safely operate a motor vehicle, an operator's license may be issued to the applicant subject, at the discretion of the director, to a limitation to operate only such motor vehicles at such time, for such purpose, and within such area as the license shall designate.

(4) (a) The director may, when requested by a law enforcement officer, when the director has reason to believe that a person may be physically or mentally incompetent to operate a motor vehicle, or when a person's driving record appears to the department to justify an examination, request the advice of the Health Advisory Board and may give notice to the person to appear before an examiner, the board, or a designee of the director for examination concerning the person's ability to operate a motor vehicle safely. Any such request by a law enforcement officer shall be accompanied by written justification for such request and shall be approved by a supervisory law enforcement officer, police chief, or county sheriff.

(b) A refusal to appear before an examiner, the board, or a designee of the director for an examination after notice to do so shall be unlawful and

shall result in the immediate cancellation of the person's operator's license by the director.

(c) If the person cannot qualify at the examination by an examiner, his or her operator's license shall be immediately surrendered to the examiner and forwarded to the director who shall cancel the person's operator's license.

(d) If in the opinion of the board the person cannot qualify at the examination by the board, the board shall advise the director. If the director determines after consideration of the advice of the board that the person lacks the physical or mental ability to operate a motor vehicle, the director shall notify the person in writing of the decision. Upon receipt of the notice, the person shall immediately surrender his or her operator's license to the director who shall cancel the person's operator's license.

(e) Refusal to surrender an operator's license on demand shall be unlawful, and any person failing to surrender his or her operator's license as required by this subsection shall be guilty of a Class III misdemeanor.

(5) No operator's license referred to in this section shall, under any circumstances, be issued to any person who has not attained the age of sixteen years, but upon application therefor and proof of age in the manner provided in section 60-484, any such person may take the examination required by this section at any time within sixty days prior to his or her sixteenth birthday.

(6) (a) Upon receipt by the director of (i) a certified copy of a court order issued pursuant to section 60-6,211.05, (ii) and of sufficient evidence that the defendant has surrendered his or her operator's license to the department and installed an approved ignition interlock device in accordance with such court order, and upon (iii) payment by the defendant of the fee provided in section 60-4,115, the defendant shall be eligible for reinstatement of his or her operator's license following the expiration of thirty days after revocation under section 60-6,206 and the director shall issue to the defendant a Class O license restricted to the operation of a motor vehicle equipped with an ignition interlock device.

(b) Upon expiration of the court order issued pursuant to section 60-6,211.05 or an order issued by the Board of Pardons pursuant to section 27 of this act, the defendant may apply to the department in writing for issuance of an operator's license which does not contain such restriction. If the license surrendered by the defendant under subdivision (a) of this subsection has not expired, the director shall return such license to the defendant. If such license has expired, the defendant shall reapply for an operator's license pursuant to the Motor Vehicle Operator's License Act.

Sec. 7. Section 60-4,120, Revised Statutes Supplement, 1996, is amended to read:

60-4,120. (1) Except as provided in subsection (4) of this section for persons temporarily out of the state, any person duly licensed or holding a valid state identification card issued under the Motor Vehicle Operator's License Act who loses his or her operator's license or card may obtain a duplicate upon filing with the county treasurer an application and affidavit showing such loss and furnishing proof of identification in accordance with section 60-484. Upon the officer being satisfied that the loss is genuine, the officer shall cause to be issued, upon the payment of a fee of five dollars the fee prescribed in this subsection, a duplicate license or card. No more than two duplicates of a license or card may be issued in this manner. Upon the issuance of any duplicate or replacement license or card, the license or card from which the duplicate or replacement is issued shall be void. The Prior to January 1, 1999, the fee shall be five dollars and the five-dollar fee shall be handled by the treasurers in the same manner as original or renewal fees, except that such fee in each instance shall be credited, allocated, and accounted for by the county treasurer as in the cases of original and renewal operator's license fees as provided in section 60-4,115 or original or renewal state identification card fees as provided in section 60-4,181. Beginning January 1, 1999, the fee shall be six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

(2) (a) If any person changes his or her name because of marriage or divorce or by court order or a common-law name change, he or she shall apply to the county treasurer for a replacement operator's license or state identification card and furnish proof of identification in accordance with

section 60-484. If any person changes his or her address, the person shall apply to the county treasurer for a replacement operator's license or state identification card and furnish satisfactory evidence of such change.

~~(b) Such license or card shall be issued upon payment of a fee of five dollars. The application shall be made within sixty days after the change of name or address.~~

(b)(i) Prior to January 1, 1999, such license or card shall be issued upon payment of a fee of five dollars.

(ii) Beginning January 1, 1999, such license or card shall be issued upon payment of a fee of six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

(3)(a) In the event a mutilated and unreadable operator's license is held by any person duly licensed under the act or a mutilated and unreadable state identification card which was issued under the act is held by a person, such person may obtain a replacement license or card upon showing the original mutilated or unreadable license or card to the county treasurer. A replacement license or card may be issued, without a photograph, to any person who is out of the state at the time of application for the replacement license or card. Such license or card shall state on its face that it shall become invalid thirty days after such person resumes residence in the state. If the county treasurer is satisfied that the license or card is mutilated or unreadable, the county treasurer shall cause to be issued, upon the payment of a fee of five dollars the fee prescribed in this subsection, a replacement license or card.

~~(b)(i) Prior to January 1, 1999, the fee shall be five dollars and the fee shall be handled by the treasurer in the same manner as the original or renewal fee, except that the fee in each instance shall be credited, allocated, and accounted for by the county treasurer as in the cases of original and renewal operator's license fees as provided in section 60-4,115 or original or renewal state identification card fees as provided in section 60-4,181.~~

(ii) Beginning January 1, 1999, the fee shall be six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

(4)(a) If any person duly licensed under the act loses his or her operator's license or if any holder of a state identification card loses his or her card while temporarily out of the state, he or she may apply for a duplicate operator's license or card without a photograph by filing with the county treasurer an application and affidavit showing such loss. Upon the officer being satisfied that the loss is genuine, the officer shall cause to be issued, upon the payment of a fee of five dollars the fee prescribed in this subsection, a duplicate operator's license or card without a photograph. Upon the issuance of the duplicate, the original license or card shall be void.

~~(b)(i) Prior to January 1, 1999, the fee shall be five dollars.~~

(ii) Beginning January 1, 1999, the fee shall be six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

(5)(a) Any person holding a valid operator's license or state identification card without a photograph shall surrender such license or card to the treasurer of his or her county of residence within thirty days of resuming residency in this state. After the thirty-day period, such license or card shall be considered invalid. Upon the timely surrender of the license or card and payment of a fee of five dollars the fee prescribed in this subsection, such person shall be issued an operator's license or card with a color photograph of the licensee included.

(b) (i) Prior to January 1, 1999, the fee shall be five dollars.

(ii) Beginning January 1, 1999, the fee shall be six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

(6) An application form for a replacement or duplicate operator's license or state identification card shall include a voter registration portion pursuant to section 32-308 and the following specific question: Do you wish to register to vote as part of this application process?

(7) Beginning August 1, 1998, for those persons who have had the expiration date of their operators' licenses or state identification cards extended, the county treasurer may issue extended operators' licenses and state identification cards with the extended date printed on them. Such extended operators' licenses and state identification cards shall be issued if a person files an application with the county for an extended replacement license or state identification card or files an application with the county and an affidavit showing a loss of an operator's license or state identification card for an extended duplicate operator's license or state identification card, whichever application is appropriate. A fee of six dollars and twenty-five cents shall be charged. Three dollars of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

Sec. 8. Section 60-4,146.01, Revised Statutes Supplement, 1997, is amended to read:

60-4,146.01. (1) Any resident of this state who is a seasonal commercial motor vehicle operator for a farm-related or ranch-related service industry may make application apply for a restricted commercial driver's license. If the applicant is an individual, the application shall include the applicant's social security number. A restricted commercial driver's license shall authorize the holder to operate any Class B Heavy Straight Vehicle commercial motor vehicle or any Class B Heavy Straight Vehicle or Class C Small Vehicle commercial motor vehicle required to be placarded pursuant to section 75-364 when the hazardous material being transported is (a) diesel fuel in quantities of one thousand gallons or less, (b) liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less, or (c) solid fertilizers that are not transported or mixed with any organic substance within one hundred fifty miles of the employer's place of business or the farm or ranch being served.

(2) Any applicant for a restricted commercial driver's license or seasonal permit shall be eighteen years of age or older, shall have possessed a valid operator's license during the twelve-month period immediately preceding application, and shall demonstrate, in a manner to be prescribed by the director, that:

(a) If the applicant has possessed a valid operator's license for two or more years, that in the two-year period immediately preceding application the applicant:

(i) Has not possessed more than one operator's license at one time;

(ii) Has not been subject to any order of suspension, revocation, or cancellation of any type;

(iii) Has no convictions involving any type or classification of motor vehicle of the disqualification offenses enumerated in sections 60-4,168 and 60-4,168.01; and

(iv) Has no convictions for traffic law violations that are accident-connected and no record of at-fault accidents; and

(b) If the applicant has possessed a valid operator's license for more than one but less than two years, the applicant shall demonstrate that he or she meets the requirements prescribed in subdivision (a) of this subsection for the entire period of his or her driving record history.

(3) The commercial motor vehicle operating privilege as conferred by the restricted commercial driver's license shall be valid for ~~four~~ five years if annually revalidated by the seasonal permit which shall be valid for no more than one hundred eighty consecutive days in any twelve-month period. To revalidate the restricted commercial driver's license, the applicant shall meet the requirements of subsection (2) of this section and shall designate a

time period he or she desires the commercial motor vehicle operating privilege to be valid. The time period designated by the applicant shall appear and be clearly indicated on the seasonal permit. A seasonal permit shall not be issued to any person more than once in any twelve-month period. The holder of a restricted commercial driver's license shall operate commercial motor vehicles in the course or scope of his or her employment within one hundred fifty miles of the employer's place of business or the farm or ranch currently being served.

(4) Any person who violates any provision of this section shall, upon conviction, be guilty of a Class III misdemeanor. In addition to any penalty imposed by the court, the director shall also revoke such person's restricted commercial driver's license and shall disqualify such person from operating any commercial motor vehicle in Nebraska for a period of five years.

(5) The Department of Motor Vehicles shall adopt and promulgate rules and regulations to carry out the requirements of this section.

(6) For purposes of this section:

(a) Agricultural chemical business shall mean means any business that transports agricultural chemicals predominately to or from a farm or ranch;

(b) Farm-related or ranch-related service industry shall mean means any custom harvester, retail agricultural outlet or supplier, agricultural chemical business, or livestock feeder which operates commercial motor vehicles for the purpose of transporting agricultural products, livestock, farm machinery and equipment, or farm supplies to or from a farm or ranch;

(c) Retail agricultural outlet or supplier shall mean means any retail outlet or supplier that transports either agricultural products, farm machinery, farm supplies, or both, predominately to or from a farm or ranch; and

(d) Seasonal commercial motor vehicle operator shall mean means any person who, exclusively on a seasonal basis, operates a commercial motor vehicle for a farm-related or ranch-related service industry.

Sec. 9. Section 60-4,148, Revised Statutes Supplement, 1997, is amended to read:

60-4,148. (1) All commercial drivers' licenses shall be issued by the Department of Motor Vehicles as provided in section 60-4,149. Successful applicants shall pay to the county treasurer a fee of forty fifty dollars for an original or renewal commercial driver's license. except that the fee for a commercial driver's license which will be valid for one year or less shall be fourteen dollars, the fee for a commercial driver's license which will be valid for more than one year but less than two years shall be twenty-two dollars, and the fee for a commercial driver's license which will be valid for two years or more but less than three years shall be thirty-two dollars. If the applicant is an individual, the application shall include the applicant's social security number.

(2) Any person making application to add or remove a class of commercial motor vehicle, any endorsement, or any restriction to or from a previously issued and outstanding commercial driver's license shall pay a fee of five dollars. The fee for an original or renewal seasonal permit to revalidate the restricted commercial motor vehicle operating privilege to a previously issued and outstanding restricted commercial driver's license shall be five dollars.

(3) One dollar and seventy-five cents of the fees for each original, renewal, duplicate, or replacement commercial driver's license or restricted commercial driver's license and twenty-five cents of each of the original and renewal fees for LPC-learner's permits and seasonal permits shall be credited to the general fund of the county and shall be included by the county treasurer in his or her report of fees as provided by law. The balance of the such fees provided for by this section shall be remitted by the county treasurer to the State Treasurer for credit to the General Fund.

Sec. 10. Section 60-4,150, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,150. (1) Any person holding a commercial driver's license who loses his or her license, who requires issuance of a replacement license because of a change of name or address, or whose license is mutilated or unreadable may obtain a duplicate or replacement commercial driver's license by filing with an examiner of the Department of Motor Vehicles an application and affidavit and by furnishing proof of identification in accordance with section 60-484.

(2) The application for a replacement license because of a change of name or address shall be made within sixty days after the change of name or address.

(3)(a) Upon the examiner being satisfied that a duplicate or

replacement commercial driver's license should be issued, the applicant shall receive such license upon payment of a fee of five dollars the fee prescribed in this subsection to the county treasurer.

(b) (i) Prior to January 1, 1999, the fee for a duplicate or replacement commercial driver's license shall be five dollars.

(ii) Beginning January 1, 1999, the fee shall be six dollars and twenty-five cents. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted by the county treasurer to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted by the county treasurer to the State Treasurer for credit to the General Fund.

(4) Duplicate and replacement commercial drivers' licenses shall be issued in the manner provided for the issuance of original and renewal commercial drivers' licenses as provided for by section 60-4,149. No Prior to January 1, 1999, no more than two duplicate commercial drivers' licenses shall be issued to any applicant in any four-year period. Beginning January 1, 1999, no more than two duplicate commercial drivers' licenses shall be issued to any applicant in any five-year period. Upon issuance of any duplicate or replacement commercial driver's license, the commercial driver's license for which the duplicate or replacement license is issued shall be void.

(5) Beginning August 1, 1998, for those persons who have had the expiration date of their commercial drivers' licenses extended, the county treasurer may issue extended commercial drivers' licenses with the extended date printed on them. Such extended commercial drivers' licenses shall be issued if a person files an application with the examiner for an extended replacement commercial driver's license or files an application with the examiner and an affidavit showing a loss of a commercial driver's license for an extended duplicate commercial driver's license, whichever application is appropriate, and proof of identification in accordance with section 60-484. A fee of six dollars and twenty-five cents shall be charged. Three dollars of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. One dollar and twenty-five cents of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. The balance of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the General Fund.

Sec. 11. Section 60-4,181, Revised Statutes Supplement, 1997, is amended to read:

60-4,181. (1) A state identification card shall be issued by the county treasurer after the person requesting the card (a) files an application with an examining officer, (b) furnishes two forms of proof of identification described in section 60-484, and (c) pays a fee to the county treasurer of eighteen dollars and seventy-five cents. Three dollars and fifty fifteen dollars for a card which will be valid for three years or more, eleven dollars and twenty-five cents for a card which will be valid two years or more but less than three years, seven dollars and fifty cents for a card which will be valid for one year or more but less than two years, and three dollars and seventy-five cents for a card which will be valid for less than one year. Two dollars and seventy-five cents of the fee shall be credited to the general fund of the county and shall be included by the county treasurer in the report of fees as required by law. by the county treasurer. An amount Five dollars of the fee shall be remitted to the State Treasurer by the county treasurer for credit to the Department of Motor Vehicles Cash Fund. as follows: Four dollars for a card which will be valid for three years or more, two dollars and fifty cents for a card which will be valid two years or more but less than three years, and one dollar and fifty cents for a card which will be valid for one year or more but less than two years. The balance of the fee shall be remitted to the State Treasurer by the county treasurer and credited to the General Fund. The state identification card shall contain the anatomical gift information specified in section 60-494.

(2) The application shall include the name, age, post office address, place of residence, date of birth, sex, social security number, and physical description of the applicant, the voter registration portion pursuant to section 32-308, and the following:

Do you wish to register to vote as part of this application process?  
OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(A) Do you wish to make an anatomical gift?\*

If so, please complete the following:

I give:

(i) ..... any needed organs or tissues.

(ii) ..... only the following organs or tissues

(specify the organ or tissue)

for transplantation, therapy, or medical or dental education or research.

(iii) ..... my body for anatomical study if needed.\*\*

Limitations or special wishes if any .....

(b) Do you wish to receive any additional specific information regarding anatomical gifts?

\*An anatomical gift means a gift of all or any part of your body for transplantation, therapy, or medical or dental education or research. For purposes of an anatomical gift, parts of your body include organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of the human body. You may make an anatomical gift if you are of sound mind. The anatomical gift is effective upon your death and the consent of your next of kin, guardian, or other person as listed in section 71-4802.

\*\*In order for you to donate your body to the State Anatomical Board, you must complete a bequeathal form which is available from the board.

Signature of Donor

Date of Birth of Donor

Date Signed

City and State

Witness

Witness

(3) In addition to the information prescribed in subsection (2) of this section, beginning on January 1, 1996, the application shall also provide in a clear and conspicuous manner a notice that the personal information on the application is subject to disclosure as a motor vehicle record unless the individual chooses to prohibit such disclosure by filing a prescribed form with the department.

(4) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application for the card contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

Sec. 12. Section 60-601, Revised Statutes Supplement, 1996, is amended to read:

60-601. Sections 60-601 to 60-6.374 and sections 22 and 23 of this act shall be known and may be cited as the Nebraska Rules of the Road.

Sec. 13. Section 60-6,196, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,196. (1) It shall be unlawful for any person to operate or be in the actual physical control of any motor vehicle:

(a) While under the influence of alcoholic liquor or of any drug;  
(b) When such person has a concentration of ten-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood; or

(c) When such person has a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath.

(2) Any person who operates or is in the actual physical control of any motor vehicle while in a condition described in subsection (1) of this section shall be guilty of a crime and upon conviction punished as follows:

(a) If such person (i) has not had a conviction under this section in the eight ~~twelve~~ years prior to the date of the current conviction or (ii) has not been convicted under a city or village ordinance enacted pursuant to this section in the eight ~~twelve~~ years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of six months from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle for any purpose for a period of sixty days from the date of the order

unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(b) If such person (i) has had one conviction under this section in the eight twelve years prior to the date of the current conviction or (ii) has been convicted once under a city or village ordinance enacted pursuant to this section in the eight twelve years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of one year from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of six months from the date of the order unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, confinement in the city or county jail for forty-eight hours and the payment of a five-hundred-dollar fine; and

(c) If such person (i) has had two or more convictions under this section in the eight twelve years prior to the date of the current conviction, (ii) has been convicted two or more times under a city or village ordinance enacted pursuant to this section in the eight twelve years prior to the date of the current conviction, or (iii) has been convicted as described in subdivisions (i) and (ii) of this subdivision a total of two or more times in the eight twelve years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, confinement in the city or county jail for seven days and the payment of a six-hundred-dollar fine; and

(d) If such person (i) has had three or more convictions under this section in the twelve years prior to the date of the current conviction, (ii) has been convicted three or more times under a city or village ordinance enacted pursuant to this section in the twelve years prior to the date of the current conviction, or (iii) has been convicted as described in subdivisions (i) and (ii) of this subdivision a total of three or more times in the twelve years prior to the date of the current conviction, such person shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as conditions, confinement in the city or county jail for seven days and the payment of a one-thousand-dollar fine.

(3) For each conviction under this section, the court shall as part of the judgment of conviction make a finding on the record as to the number of the defendant's prior convictions under this section and under a city or

village ordinance enacted pursuant to this section in the eight twelve years prior to the date of the current conviction. The defendant shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

(4) For purposes of this section, the eight-year twelve-year period shall be computed from the date of the prior offense to the date of the offense which resulted in the current conviction and the terms conviction under this section and prior conviction shall include any conviction under this section as it existed at the time of such conviction regardless of subsequent amendments to such section.

(5) Any period of revocation or order not to drive imposed under this section shall be reduced by any period imposed under section 60-6,206. Any period of revocation or order not to drive imposed under this section shall not prohibit the operation of a motor vehicle under the terms and conditions of an employment driving permit issued pursuant to subsection (2) of section 60-6,206.

(6) Any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to subdivision (2)(c) or (2)(d) of this section shall be guilty of a Class IV felony. If such person has had a conviction under this subsection prior to the date of the current conviction under this subsection, such person shall be guilty of a Class III felony.

(7) Any city or village may enact ordinances in conformance with this section and section 60-6,197. Upon conviction of any person of a violation of such a city or village ordinance, the provisions of this section with respect to the operator's license of such person shall be applicable the same as though it were a violation of this section.

(8) Any person who has been convicted of driving while intoxicated for the first time or any person convicted of driving while intoxicated who has never been assessed for alcohol abuse shall, during a presentence evaluation, submit to and participate in an alcohol assessment. The alcohol assessment shall be paid for by the person convicted of driving while intoxicated. At the time of sentencing, the judge, having reviewed the assessment results, may then order the convicted person to follow through on the alcohol assessment results at the convicted person's expense in lieu of or in addition to any penalties deemed necessary.

Sec. 14. Section 60-6,197, Revised Statutes Supplement, 1996, is amended to read:

60-6,197. (1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person arrested for any offense arising out of acts alleged to have been committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic liquor or drugs to submit to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the concentration of alcohol or the presence of drugs in such blood, breath, or urine when the officer has reasonable grounds to believe that such person was driving or was in the actual physical control of a motor vehicle in this state while under the influence of alcoholic liquor or drugs in violation of section 60-6,196.

(3) Any peace officer who has been duly authorized to make arrests for violation of traffic laws of this state or ordinances of any city or village may require any person who operates or has in his or her actual physical control a motor vehicle in this state to submit to a preliminary test of his or her breath for alcohol concentration if the officer has reasonable grounds to believe that such person has alcohol in his or her body, has committed a moving traffic violation, or has been involved in a traffic accident. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of section 60-6,196 shall be placed under arrest. Any person who refuses to submit to such preliminary breath test shall be guilty of a Class V misdemeanor.

(4) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood, breath, or urine for a determination of the concentration of alcohol or the presence of drugs. If the chemical test discloses the presence of a concentration of alcohol in violation of

subsection (1) of section 60-6,196, the person shall be subject to the administrative revocation procedures provided in sections 60-6,205 to 60-6,208 and upon conviction shall be punished as provided in section 60-6,196. Any person who refuses to submit to such test or tests required pursuant to this section shall be subject to the administrative revocation procedures provided in sections 60-6,205 to 60-6,208 and shall be guilty of a crime and upon conviction punished as follows:

(a) If such person (i) has not had a conviction under this section for refusal to submit to a chemical blood, breath, or urine test in the eight twelve years prior to the date of the current conviction or (ii) has not been convicted under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196 in the eight twelve years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of six months from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of sixty days unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(b) If such person (i) has had one conviction under this section for refusal to submit to a chemical blood, breath, or urine test in the eight twelve years prior to the date of the current conviction or (ii) has been convicted once under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196 in the eight twelve years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of six months from the date of the order unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, confinement in the city or county jail for forty-eight hours and the payment of a five-hundred-dollar fine; and

(c) If such person (i) has had two ~~or more~~ convictions under this section for refusal to submit to a chemical blood, breath, or urine test in the eight twelve years prior to the date of the current conviction, (ii) has been convicted two ~~or more~~ times under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196 in the eight twelve years prior to the date of the current conviction, or (iii) has been convicted as described in subdivisions (i) and (ii) of this subdivision a total of two ~~or more~~ times in the eight twelve years prior to the date of the current conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as one of its conditions, confinement in the city or county jail for seven days and the

payment of a six-hundred-dollar fine; and

(d) If such person (i) has had three or more convictions under this section for refusal to submit to a chemical blood, breath, or urine test in the twelve years prior to the date of the current conviction, (ii) has been convicted three or more times under a city or village ordinance enacted pursuant to this section as authorized by section 60-6,196 in the twelve years prior to the date of the current conviction, or (iii) has been convicted as described in subdivisions (i) and (ii) of this subdivision a total of three or more times in the twelve years prior to the date of the current conviction, such person shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of fifteen years from the date ordered by the court and shall order that the operator's license of such person be revoked for a like period. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. Such revocation shall not run concurrently with any jail term imposed.

If the court places such person on probation or suspends the sentence for any reason, the court shall, as one of the conditions of probation or sentence suspension, order such person not to drive any motor vehicle in the State of Nebraska for any purpose for a period of one year unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation shall also include, as conditions, confinement in the city or county jail for seven days and the payment of a one-thousand-dollar fine.

(5) For each conviction under this section, the court shall, as part of the judgment of conviction, make a finding on the record as to the number of the defendant's prior convictions under this section and under a city or village ordinance enacted pursuant to this section or section 60-6,196 in the eight twelve years prior to the date of the current conviction. The defendant shall be given the opportunity to review the record of his or her prior convictions, bring mitigating facts to the attention of the court prior to sentencing, and make objections on the record regarding the validity of such prior convictions.

(6) For purposes of this section, the eight-year twelve-year period shall be computed from the date of the prior offense to the date of the offense which resulted in the current conviction and the terms conviction under this section and prior conviction shall include any conviction under this section as it existed at the time of such conviction regardless of subsequent amendments to such section.

(7) Any person operating a motor vehicle on the highways or streets of this state while his or her operator's license has been revoked pursuant to subdivision (4)(c) or (4)(d) of this section shall be guilty of a Class IV felony. If such person has had a conviction under this subsection prior to the date of the current conviction under this subsection, such person shall be guilty of a Class III felony.

(8) Any city or village may enact ordinances in conformance with this section. Upon conviction of any person of a violation of such city or village ordinance, the provisions of this section with respect to the operator's license of such person shall be applicable the same as though it were a violation of this section.

(9) Any person involved in a motor vehicle accident in this state may be required to submit to a chemical test of his or her blood, breath, or urine by any peace officer if the officer has reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle on a public highway in this state while under the influence of alcoholic liquor or drugs at the time of the accident. A person involved in a motor vehicle accident subject to the implied consent law of this state shall not be deemed to have withdrawn consent to submit to a chemical test of his or her blood, breath, or urine by reason of leaving this state. If the person refuses a test under this section and leaves the state for any reason following an accident, he or she shall remain subject to subsection (4) of this section and section 60-6,206 upon return.

(10) Any person who is required to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be advised that refusal to submit to such test or tests is a separate crime for which the person may be charged.

(11) Refusal to submit to a chemical blood, breath, or urine test or tests pursuant to this section shall be admissible evidence in any action for a violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section.

Sec. 15. Section 60-6,205, Revised Statutes Supplement, 1996, is

amended to read:

60-6,205. (1) Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol.

(2) If a person arrested pursuant to section 60-6,197 refuses to submit to the chemical test of blood, breath, or urine required by that section, the test shall not be given except as provided in section 60-6,210 for the purpose of medical treatment and the arresting peace officer, as agent for the Director of Motor Vehicles, shall verbally serve notice to the arrested person of the intention to immediately impound and revoke the operator's license of such person and that the revocation will be automatic thirty days after the date of arrest unless a petition for hearing is filed within ten days after the date of arrest as provided in subsection (6) of this section. The arresting peace officer shall immediately within ten days forward to the director a sworn report stating (a) that the person was validly arrested pursuant to section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person refused to submit to the required test.

(3) If a person arrested pursuant to section 60-6,197 submits to the chemical test of blood or breath required by that section, and the test discloses the presence of alcohol in any of the concentrations specified in section 60-6,196, and the test results are available to the arresting peace officer while the arrested person is still in custody, the arresting peace officer, as agent for the director, shall verbally serve notice to the arrested person of the intention to immediately impound and revoke the operator's license of such person and that the revocation will be automatic thirty days after the date of arrest unless a petition for hearing is filed within ten days after the date of arrest as provided in subsection (6) of this section. The arresting peace officer shall immediately within ten days forward to the director a sworn report stating (a) that the person was validly arrested pursuant to section 60-6,197 and the reasons for such arrest, (b) that the person was requested to submit to the required test, and (c) that the person submitted to a test, the type of test to which he or she submitted, and that such test revealed the presence of alcohol in a concentration specified in section 60-6,196.

(4) On behalf of the director, the arresting peace officer submitting a sworn report under subsection (2) or (3) of this section shall serve notice of the revocation on the arrested person, and the revocation shall be effective thirty days after the date of arrest. The notice of revocation shall contain a statement explaining the operation of the administrative revocation procedure. The peace officer shall also provide to the arrested person an addressed envelope and a petition form which the arrested person may use to request a hearing before the director to contest the revocation. The petition form shall clearly state on its face that the petition must be completed and delivered to the Department of Motor Vehicles or postmarked within ten days after receipt or the person's right to a hearing to contest the revocation will be foreclosed. The director shall prepare and approve the form for the petition, the addressed envelope, and the notice of revocation and shall provide them to law enforcement agencies.

If the person has an operator's license, the arresting peace officer shall take possession of the license and issue a temporary operator's license valid for thirty days. The arresting peace officer shall forward the operator's license to the department along with the sworn report made under subsection (2) or (3) of this section.

(5) (a) If a peace officer is unable to serve the notice of revocation as required by subsection (4) of this section following the receipt of the results of a chemical test which indicate the presence of alcohol in a concentration specified in section 60-6,196, the results are not available to the arresting peace officer while the arrested person is in custody, and the notice of revocation has not been served as required by subsection (4) of this section, the peace officer shall forward to the director a sworn report containing the information prescribed by subsection (3) of this section immediately within ten days after upon receipt of the results of the chemical test. If the sworn report is not received within ten days, the revocation shall not take effect.

(b) Upon receipt of the report, the director shall serve the notice of revocation on the arrested person by certified or registered mail to the address appearing on the records of the director. If the address on the

director's records differs from the address on the arresting peace officer's report, the notice shall be sent to both addresses. The notice of revocation shall contain a statement explaining the operation of the administrative revocation procedure. The director shall also provide to the arrested person an addressed envelope and a petition form which the arrested person may use to request a hearing before the director to contest the revocation. The petition form shall clearly state on its face that the petition must be completed and delivered to the department or postmarked within ten days after receipt of the person's right to a hearing to contest the revocation will be foreclosed. The director shall prepare and approve the form for the petition, the addressed envelope, and the notice of revocation. The revocation shall be effective thirty days after the date of mailing.

(c) If the records of the director indicate that the arrested person possesses an operator's license, the director shall include with the notice of revocation a temporary operator's license which expires thirty days after the date of mailing. Any arrested person who desires a hearing and has been served a notice of revocation pursuant to this subsection shall return his or her operator's license with the petition requesting the hearing. If the operator's license is not included with the petition requesting the hearing, the director shall reject the petition.

(6) (a) An arrested person's operator's license impounded pursuant to subsection (4) of this section shall be automatically revoked upon the expiration of thirty days after the date of arrest. An arrested person's operator's license impounded pursuant to subsection (5) of this section shall be automatically revoked upon the expiration of thirty days after the date of mailing of the notice of revocation by the director. The arrested person shall postmark or return to the director a petition within ten days after the receipt of the notice of revocation if the arrested person desires a hearing. The petition shall be in writing and shall state the grounds on which the person is relying to prevent the revocation from becoming effective. The hearing shall be conducted in the county in which the arrest occurred or in any other county agreed to by the parties.

(b) The director shall conduct the hearing within twenty days after a petition is filed. Upon receipt of a petition, the director shall notify the petitioner of the date and location for the hearing by certified or registered mail postmarked at least seven days prior to the hearing date. The filing of the petition shall not prevent the automatic revocation of the petitioner's operator's license at the expiration of the thirty-day period. A continuance of the hearing to a date beyond the expiration of the temporary operator's license shall stay the expiration of the temporary license when the request for continuance is made by the director.

(c) At hearing the issues under dispute shall be limited to:

(i) In the case of a refusal to submit to a chemical test of blood, breath, or urine:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section; and

(B) Did the person refuse to submit to or fail to complete a chemical test after being requested to do so by the peace officer; or

(ii) If the chemical test discloses the presence of alcohol in a concentration specified in section 60-6,196:

(A) Did the peace officer have probable cause to believe the person was operating or in the actual physical control of a motor vehicle in violation of section 60-6,196 or a city or village ordinance enacted pursuant to such section; and

(B) Was the person operating or in the actual physical control of a motor vehicle while having an alcohol concentration in violation of subsection (1) of section 60-6,196.

(7) The director shall adopt and promulgate rules and regulations to govern the conduct of the hearing and insure that the hearing will proceed in an orderly manner. The director may appoint an examiner a hearing officer to preside at the hearing, administer oaths, examine witnesses, take testimony, and report to the director. All proceedings before the examiner hearing officer shall be recorded. Upon receipt of the arresting peace officer's sworn report, the director's order of revocation has prima facie validity and it becomes the petitioner's burden to establish by a preponderance of the evidence grounds upon which the operator's license revocation should not take effect. The director shall make a determination of the issues issue within seven days after the conclusion of the hearing. A person whose operator's license is revoked following a hearing requested pursuant to this section may appeal the order of revocation as provided in section 60-6,208.

Sec. 16. Section 60-6,206, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,206. (1) At the expiration of thirty days after the date of arrest pursuant to section 60-6,197 or if after a hearing pursuant to section 60-6,205 the Director of Motor Vehicles finds that the impounded operator's license should be revoked, the director shall (a) revoke the operator's license of a person arrested for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197 for a period of one year and (b) ~~for~~ revoke the impounded operator's license of a person who submits to a chemical test pursuant to such section which discloses the presence of a concentration of alcohol specified in section 60-6,196, ~~revoke the impounded operator's license for a period of ninety days unless the person's driving record abstract maintained in the department's computerized records shows one or more prior administrative license revocations on which final orders have been issued during the immediately preceding twelve-year period at the time the order of revocation is issued, in which case the period of revocation shall be one year. the first time such operator's license is revoked and one year for the second and any subsequent time the license is revoked within an eight-year period.~~ Except as otherwise provided in section 60-6,211.05, the license shall not be restored nor shall a new operator's license be issued to such person until the period of revocation has elapsed. If the person subject to the revocation is a nonresident of this state, the director shall revoke only the nonresident's operating privilege as defined in section 60-474 of such person and shall immediately forward the operator's license and a statement of the factual basis for the revocation to the person's state of residence.

(2) At the expiration of thirty days after an order of revocation is entered under subsection (1) of this section, (a) any person whose operator's license has been administratively revoked for a period of ninety days for submitting to a chemical test pursuant to section 60-6,197 which disclosed the presence of a concentration of alcohol in violation of section 60-6,196 (a) may make application to the director for issuance of an employment driving permit pursuant to section 60-4,130 and (b) any person who submitted to a chemical test pursuant to section 60-6,197 and has his or her operator's license revoked for ninety days pursuant to subsection (1) of this section is eligible for an order pursuant to section 60-6,211.05 to operate a motor vehicle equipped with an ignition interlock device.

This subsection shall not apply to nor shall any person be eligible for the benefit of this subsection during any period of time during which his or her operator's license is subject to an administrative revocation order (i) for refusal to submit to a chemical test of blood, breath, or urine as required by section 60-6,197, or (ii) for a period of more than ninety days for submitting to a chemical test pursuant to section 60-6,197 which disclosed the presence of a concentration of alcohol in violation of section 60-6,196.

(3) A person may have his or her license reinstated upon payment of a reinstatement fee of ninety-five dollars to the Department of Motor Vehicles after the period of revocation has expired. The director shall remit all reinstatement fees to the State Treasurer. The State Treasurer shall credit fifty dollars of each fee to the General Fund and forty-five dollars of each fee to the Department of Motor Vehicles Cash Fund.

(4) A person whose operator's license is subject to revocation pursuant to subsection (3) of section 60-6,205 shall have all proceedings dismissed or his or her operator's license immediately reinstated without payment of the reinstatement fee (a) upon presentation of suitable evidence to upon receipt of suitable evidence by the director that (a) within the thirty-day period following the date of arrest the prosecuting attorney responsible for the matter declined to file a complaint alleging a violation of section 60-6,196, (b) if the charge is was dismissed, or (c) if the defendant, at trial, is was found not guilty of violating such section. The director shall adopt and promulgate rules and regulations establishing standards for the presentation of suitable evidence of compliance with subdivision (a), (b), or (c) of this subsection.

Sec. 17. Section 60-6,208, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,208. Any person who feels himself or herself aggrieved because of such revocation may appeal therefrom to the district court of the county where the alleged events occurred for which he or she was arrested in accordance with the Administrative Procedure Act. Such appeal shall ~~not~~ suspend the order of revocation unless a stay thereof is allowed by a judge of such court pending a final determination of the review. If a stay is allowed and until the final judgment of a court finds against the person so appealing. The ~~the~~ period of revocation shall commence at the time of final judgment of

the court for the full period of the time of revocation.

Sec. 18. Section 60-6,209, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,209. (1) Any revocation of a person's license whose operator's license has been revoked pursuant to sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,208 for a third or subsequent time for a period of fifteen years may be reduced to the time served upon application to the court if the court finds that apply to the Department of Motor Vehicles, on forms prescribed by the department, requesting the department to make a recommendation to the Board of Pardons for reinstatement of his or her operator's license. Upon receipt of the application, the Director of Motor Vehicles shall review the application if such applicant person has served at least five seven years of such revocation and make a recommendation for reinstatement or for denial of reinstatement. The department may recommend reinstatement if such person shows the following: and that all of the following are shown by the applicant by a preponderance of the evidence:

(a) Such person (1) The applicant has completed a state-certified substance abuse program of treatment for chemical dependency and is recovering or such person has substantially recovered from the dependency on or tendency to abuse alcohol or drugs;

(b) Such person (2) The applicant has not been convicted, since the date of the revocation order, of any subsequent violations of section 60-6,196 or 60-6,197 or any comparable city or village ordinance and the applicant has not, since the date of the revocation order, submitted to a chemical test under section 60-6,197 that indicated an alcohol concentration in violation of section 60-6,196 or refused to submit to a chemical test under section 60-6,197;

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

(d) Such person (3) The applicant has abstained from the excessive consumption of alcoholic beverages and the consumption of drugs except at the direction of a licensed physician or pursuant to a valid prescription; and

(e) Such person's (4) The applicant's operator's license is not currently subject to suspension or revocation for any other reason.

The court shall forward to the Department of Motor Vehicles a record of any application submitted under this section and the results of the court's disposition of the application.

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

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

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

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

(6) If the Board of Pardons reinstates a person's operator's license, the board shall notify the Department of Motor Vehicles of the reinstatement. Such person may have his or her operator's license reinstated by the department upon payment of a fee of ninety-five dollars and the filing of proof of financial responsibility. The fees paid pursuant to this section shall be collected by the department and remitted to the State Treasurer. The State Treasurer shall credit fifty dollars of each fee to the General Fund and forty-five dollars of each fee to the Department of Motor Vehicles Cash Fund.

Sec. 19. Section 60-6,211.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,211.01. (4) It shall be unlawful for any person under twenty-one years of age to operate or be in the actual physical control of any motor vehicle:

(a) (1) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood but less than the concentration prescribed under subdivision (1) (b) of section 60-6,196; or

(b) (2) When such person has a concentration of two-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath but less than the concentration prescribed under subdivision (1) (c) of section 60-6,196.

(2) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when the driver of a motor vehicle has been cited for a violation of some other offense.

Sec. 20. Section 60-6,211.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,211.02. (1) Any person who operates or has in his or her actual physical control a motor vehicle in this state shall be deemed to have given his or her consent to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath.

(2) Any peace officer who has been duly authorized to make arrests for violations of traffic laws of this state or of ordinances of any city or village may require any person under twenty-one years of age who has been cited for some offense to submit to a chemical test or tests of his or her blood or breath for the purpose of determining the concentration of alcohol in such blood or breath when the officer has reasonable grounds probable cause to believe that such person was driving or was in the actual physical control of a motor vehicle in this state in violation of section 60-6,211.01. Such peace officer may require such person to submit to a preliminary breath test. Any person who refuses to submit to such preliminary breath test or whose preliminary breath test results indicate an alcohol concentration in violation of section 60-6,211.01 shall be placed under arrest.

(3) Any person arrested as provided in this section may, upon the direction of a peace officer, be required to submit to a chemical test or tests of his or her blood or breath for a determination of the concentration of alcohol. If the chemical test discloses the presence of a concentration of alcohol in violation of section 60-6,211.01, the person shall be found guilty of a traffic infraction as defined in section 60-672 and upon conviction shall have his or her operator's license impounded by the court for thirty days for each violation of section 60-6,211.01. Any person who refuses to submit to such test or tests required pursuant to this section shall not have the tests taken but shall be found guilty of a traffic infraction as defined in section 60-672 and upon conviction shall have his or her operator's license impounded by the court for ninety days for refusal to submit to such tests required pursuant to this section.

Sec. 21. Section 60-6,211.03, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,211.03. (1) If a person whose operator's license has been impounded pursuant to section 60-6,211.02 has had no other violations of section 60-6,211.01 or 60-6,211.02 during the time of impoundment of the operator's license, the record of such impoundment shall be sealed. The court shall not report this infraction to the Department of Motor Vehicles.

(2) Any person whose operator's license is impounded pursuant to section 60-6,211.02 may be allowed by the court to operate a motor vehicle in order to drive to and from his or her place of employment.

Sec. 22. (1) An abstract of the court record of every person whose license has been impounded pursuant to section 60-6,211.02 shall be transmitted to the Department of Motor Vehicles. This violation shall become part of the person's record maintained by the department for a period of not longer than ninety days. After ninety days, the department shall expunge the violation from the person's record.

(2) Any person whose license has been impounded pursuant to section 60-6,211.02 and who refused to submit to a chemical test or tests required pursuant to such section shall have the violation become part of the person's record maintained by the department for a period of not longer than one hundred twenty days. After one hundred twenty days, the department shall expunge the violation from the person's record.

Sec. 23. (1) At the end of the impoundment period under section 60-6,211.02, the operator's license shall be returned by the court to the licensee.

(2) Any person who unlawfully operates a motor vehicle during the

period of impoundment shall have his or her operator's license suspended for a period of six months.

Sec. 24. Section 60-6,211.05, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,211.05. (1) If an order of probation is granted under section 60-6,196 or 60-6,197, the court may order the defendant to install an ignition interlock device of a type approved by the Director of Motor Vehicles on each motor vehicle operated by the defendant. Any order issued by the court pursuant to this section shall not take effect until the defendant is eligible to operate a motor vehicle pursuant to subsection (2) of section 60-6,206. The device shall, without tampering or the intervention of another person, prevent the defendant from operating the motor vehicle when the defendant has an alcohol concentration greater than the levels prescribed in section 60-6,196.

(2) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 27 of this act, the court or the Board of Pardons shall order the Department of Motor Vehicles to issue to the defendant a restricted Class O license as provided in section 60-4,118 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device. The Such court order shall remain in effect for a period of time as determined by the court not to exceed the maximum term of revocation which the court could have imposed according to the nature of the violation. Such Board of Pardons order shall remain in effect for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(3) A person who tampers with or circumvents an ignition interlock device installed under a court order while the order is in effect or who operates a motor vehicle which is not equipped with an ignition interlock device in violation of a court order made pursuant to this section shall be guilty of a Class II misdemeanor.

(4) Any person restricted to operating a motor vehicle equipped with an ignition interlock device, pursuant to a Board of Pardons order, who operates upon the highways of this state a motor vehicle without an ignition interlock device, or who operates a motor vehicle equipped with an ignition interlock device which has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 27 of this act.

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

Sec. 25. Section 83-1,127, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,127. The Board of Pardons shall:

(1) Exercise the pardon authority as defined in section 83-170 for all criminal offenses except treason and cases of impeachment;

(2) Make rules and regulations for its own administration and operation;

(3) Appoint and remove its employees as prescribed by the State Personnel System and delegate appropriate powers and duties to them;

(4) Consult with the Board of Parole concerning applications for the exercise of pardon authority;

(5) Consult with the Department of Motor Vehicles concerning applications received from the department pursuant to section 60-6,209 for the exercise of pardon authority; and

(6) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities under the provisions of the Nebraska Treatment and Corrections Act.

Sec. 26. Section 83-1,129, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,129. (1) Any person desiring the Board of Pardons to exercise its pardon authority shall request an application from its secretary. The application shall be returned to the secretary and shall state the specific relief requested and such other information as is prescribed by the board.

(2) Any person whose operator's license has been revoked pursuant to sections 60-6,196, 60-6,197, and 60-6,199 to 60-6,208 for a third or subsequent time for a period of fifteen years and who desires the Board of Pardons to exercise its pardon authority shall make application pursuant to section 60-6,209.

(3) The application (3) Any application filed pursuant to subsection (1) or (2) of this section shall be considered with or without a hearing by the board at its next regular scheduled meeting. If a hearing is held, it shall be conducted in an informal manner and a record of the proceedings shall be made and preserved according to the guidelines of the board.

Sec. 27. (1) The Board of Pardons may, in its sole discretion, when granting a license reinstatement to any person who has made application pursuant to section 60-6,209, order such person to operate only motor vehicles equipped with an ignition interlock device approved by the Director of Motor Vehicles. The Board of Pardons may order the use of such a device for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for a license reinstatement is made.

(2) Any person ordered by the Board of Pardons to operate only motor vehicles equipped with such an ignition interlock device shall make application to the director for the issuance of a Class O operator's license restricted to the operation of a motor vehicle equipped with such an ignition interlock device.

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

Sec. 28. Section 83-1,135, Revised Statutes Supplement, 1996, is amended to read:

83-1,135. Sections 83-170 to 83-1,135 and section 27 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 29. Sections 5, 8, 9, 11, and 31 of this act become operative on January 1, 1999. The other sections of this act become operative on their effective date.

Sec. 30. Original sections 28-106, 29-119, 60-490, 60-4,110, 60-4,150, 60-6,196, 60-6,206, 60-6,208, 60-6,209, 60-6,211.01, 60-6,211.02, 60-6,211.03, 60-6,211.05, 83-1,127, and 83-1,129, Reissue Revised Statutes of Nebraska, and sections 60-4,118, 60-4,120, 60-601, 60-6,197, 60-6,205, and 83-1,135, Revised Statutes Supplement, 1996, are repealed.

Sec. 31. Original section 60-4,115, Revised Statutes Supplement, 1996, and sections 60-4,146.01, 60-4,148, and 60-4,181, Revised Statutes Supplement, 1997, are repealed.

Sec. 32. Since an emergency exists, this act takes effect when passed and approved according to law.