

LEGISLATIVE BILL 772

Approved by the Governor June 3, 1997

Introduced by Brashear, 4

AN ACT relating to sentencing; to amend sections 28-1467 to 28-1469, 60-4,108, 60-4,109, and 60-698, Reissue Revised Statutes of Nebraska; to change penalty provisions relating to operating an aircraft while under the influence of liquor or drug, operating a motor vehicle during a period of suspension, revocation, or impoundment, and failing to stop after a motor vehicle accident; and to repeal the original sections.

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

Section 1. Section 28-1467, Reissue Revised Statutes of Nebraska, is amended to read:

28-1467. If ~~such~~ a conviction under section 28-1466 is for a first offense, ~~such~~ the person shall be guilty of a Class III misdemeanor and the court shall, as part of the judgment of conviction, order such person not to operate any aircraft for any purpose for a period of six months from the date ordered by the court. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later. If of his final discharge from the county jail, or the date of payment or satisfaction of any fine, whichever is the later, except that if the court shall suspend suspends the proceedings and place places such person on probation as provided by law, the court as one of the conditions of probation shall order such person not to operate any aircraft for any purpose for a period of thirty days from the date of the order.

Sec. 2. Section 28-1468, Reissue Revised Statutes of Nebraska, is amended to read:

28-1468. If ~~such~~ a conviction under section 28-1466 is for a second offense, ~~the such~~ person shall be guilty of a Class III misdemeanor and shall be imprisoned in the county jail for not less than five days and the court shall, as part of the judgment of conviction, order such person not to operate any aircraft for any purpose for a period of one year from the date of his final discharge from the county jail; or the date of payment or satisfaction of any fine, whichever is the later, and if ordered by the court. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later. If the aircraft which such person was operating or was actually physically controlling, while under the influence of alcoholic liquor or any drug, is registered in the name of such person, the aircraft shall be impounded by the court for a period of not less than two months nor greater than one year at the expense and risk of the owner thereof; except that any aircraft so impounded shall be released to the holder of a bona fide lien thereon, executed prior to such impounding, when possession of such aircraft is requested in writing by such lienholder for the purpose of foreclosing and satisfying ~~his~~ the lien thereon.

Sec. 3. Section 28-1469, Reissue Revised Statutes of Nebraska, is amended to read:

28-1469. If ~~such~~ a conviction under section 28-1466 is for a third offense, or subsequent offense thereafter, ~~such~~ the 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 operate any aircraft for any purpose for a period of one year after the date of final discharge from imprisonment for such crime, or the date of payment or satisfaction of any fine; whichever is the later from the date ordered by the court. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

Sec. 4. Section 60-4,108, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,108. It shall be unlawful for any person to operate a motor vehicle during any period that his or her operator's license has been suspended, revoked, or impounded pursuant to conviction or convictions for violation of any law or laws of this state or by an order of any court or by an administrative order of the director or after such suspension, revocation, or impoundment but before reinstatement of his or her license or issuance of a new license. Except as otherwise provided by law, any person so offending shall: (1) For a first such offense, be guilty of a Class III misdemeanor,

and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from ~~(a)~~ the date of final discharge from the county jail or other correctional facility, ~~(b)~~ the date of payment or satisfaction of any fine imposed, or ~~(c)~~ the date of judgment, whichever is the latest ordered by the court; and (2) for each subsequent such offense, be guilty of a Class III misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from ~~(a)~~ the date ordered by the court. Such order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later. Such revocation shall not run concurrently with any jail term imposed. of final discharge from the county jail or other correctional facility, ~~(b)~~ the date of payment or satisfaction of any fine imposed, or ~~(c)~~ the date of judgment, whichever is the latest.

Sec. 5. Section 60-4,109, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,109. Upon conviction of any person in any court within this state of a violation of any city or village ordinance pertaining to the operation of a motor vehicle by such person during any period that his or her operator's license has been revoked or suspended pursuant to any law of this state or after such suspension or revocation but before reinstatement of his or her license or issuance of a new license, the penalty shall be as follows: (1) For a first such offense, such person shall be guilty of a Class III misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of one year from the date of his or her final discharge from the jail ordered by the court; and (2) for each subsequent such offense, such person shall be guilty of a Class III misdemeanor, and the court shall, as a part of the judgment of conviction, order such person not to operate any motor vehicle for any purpose for a period of two years from the date ordered by the court. Such order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later. Such revocation shall not run concurrently with any jail term imposed. of his or her final discharge from the jail.

Sec. 6. Section 60-698, Reissue Revised Statutes of Nebraska, is amended to read:

60-698. Every person convicted of violating section 60-697 relative to the duty to stop in the event of certain accidents shall be guilty of a Class I misdemeanor. 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 not more than one year from the date of final discharge from the county or municipal jail or a Department of Correctional Services adult correctional facility or the date of payment or satisfaction of such fine, whichever is the later ordered by the court, and shall order that the operator's license of such person be revoked for a like period. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

Sec. 7. Original sections 28-1467 to 28-1469, 60-4,108, 60-4,109, and 60-698, Reissue Revised Statutes of Nebraska, are repealed.