

LEGISLATIVE BILL 925

Approved by the Governor April 13, 2006

Introduced by Friend, 10; Erdman, 47; Kruse, 13; Burling, 33

AN ACT relating to crimes and offenses; to amend sections 60-497.01, 60-4,182, 60-601, 60-605, 60-696, 60-698, 60-6,197.01, 60-6,197.06, 60-6,197.08, 60-6,210, and 60-6,211.05, Reissue Revised Statutes of Nebraska, section 28-306, Revised Statutes Cumulative Supplement, 2004, and sections 60-697 and 60-6,197.03, Revised Statutes Supplement, 2005; to change penalty provisions for motor vehicle homicide and driving under the influence as prescribed; to provide for the use of continuous alcohol monitoring devices; to change provisions relating to motor vehicle accident scenes and admissibility of blood tests; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 28-306, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-306 (1) A person who causes the death of another unintentionally while engaged in the operation of a motor vehicle in violation of the law of the State of Nebraska or in violation of any city or village ordinance commits motor vehicle homicide.

(2) Except as provided in subsection (3) of this section, motor vehicle homicide is a Class I misdemeanor.

(3)(a) If the proximate cause of the death of another is the operation of a motor vehicle in violation of section 60-6,213 or 60-6,214, motor vehicle homicide is a Class IIIA felony.

(b) If the proximate cause of the death of another is the operation of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor vehicle homicide is a Class ~~IIIA~~ III felony. The court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least ~~sixty days~~ one year and not more than fifteen years and shall order that the operator's license of such person be revoked for the same period.

(c) If the proximate cause of the death of another is the operation of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor vehicle homicide is a Class ~~III~~ II felony if the defendant has a prior conviction for a violation of section 60-6,196 or 60-6,197.06, under a city or village ordinance enacted in conformance with section 60-6,196, or under a law of another state if, at the time of the conviction under the law of such other state, the offense for which the defendant was convicted would have been a violation of section 60-6,196. The court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of ~~at least sixty days and not more than~~ fifteen years and shall order that the operator's license of such person be revoked for the same period.

(d) An order of the court described in subdivision (b) or (c) of this subsection shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

Sec. 2. Section 60-497.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-497.01 (1) An abstract of the court record of every case in which a person is convicted of violating any provision of the Motor Vehicle Operator's License Act, the Motor Vehicle Safety Responsibility Act, or the Nebraska Rules of the Road, as from time to time amended by the Legislature, or any traffic regulations in city or village ordinances shall be transmitted within thirty days of sentencing or other disposition by the court to the director. Any abstract received by the director more than thirty days after the date of sentencing or other disposition shall be reported by the director to the State Court Administrator.

(2) Any person violating section 28-306, 60-696, 60-697, 60-6,196, 60-6,197, 60-6,213, or 60-6,214 who is placed on probation shall be assessed the same points under section 60-4,182 as if such person were not placed on probation unless a court has ordered the installation of an ignition interlock device pursuant to section 60-6,211.05 and sufficient evidence is presented to the department that such a device is installed. For any other violation, the director shall not assess such person with any points under ~~such~~ section 60-4,182 for such violation when the person is placed on probation, until the director is advised by the court that such person previously placed on

probation has violated the terms of his or her probation and such probation has been revoked. Upon receiving notice of revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. When a person fails to successfully complete probation, the court shall notify the director immediately.

Sec. 3. Section 60-4,182, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,182 In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the director. The following point system shall be adopted:

- (1) Conviction of motor vehicle homicide - 12 points;
- (2) Third offense drunken driving in violation of any city or village ordinance or of section 60-6,196, as disclosed by the records of the director, regardless of whether the trial court found the same to be a third offense - 12 points;
- (3) Failure to stop and render aid as required under the laws of this state section 60-697 in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another - 6 points;
- (4) Failure to stop and ~~render aid~~ report as required under the laws of this state section 60-696 or any city or village ordinance in the event of a motor vehicle accident resulting in property damage ~~if such accident is reported by the owner or operator within twelve hours from the time of the accident~~ - 4 6 points; ~~7 otherwise - 8 points,~~ and for purposes of this subdivision a telephone call or other notification to the appropriate peace officers shall be deemed to be a report;
- (5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or when such person has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or per two hundred ten liters of his or her breath in violation of any city or village ordinance or of section 60-6,196 - 6 points;
- (6) Willful reckless driving in violation of any city or village ordinance or of section 60-6,214 or 60-6,217 - 6 points;
- (7) Careless driving in violation of any city or village ordinance or of section 60-6,212 - 4 points;
- (8) Negligent driving in violation of any city or village ordinance - 3 points;
- (9) Reckless driving in violation of any city or village ordinance or of section 60-6,213 - 5 points;
- (10) Speeding in violation of any city or village ordinance or any of sections 60-6,185 to 60-6,190 and 60-6,313:
 - (a) Not more than five miles per hour over the speed limit - 1 point;
 - (b) More than five miles per hour but not more than ten miles per hour over the speed limit - 2 points; and
 - (c) More than ten miles per hour over the speed limit - 3 points, except that one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed upon conviction of exceeding by more than fifteen miles per hour the speed limits provided for in subdivision (1)(e), (f), or (g) of section 60-6,186;
- (11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian - 2 points;
- (12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian - 4 points; and
- (13) All other traffic violations involving the operation of motor vehicles by the operator for which reports to the Department of Motor Vehicles are required under sections 60-497.01 and 60-497.02, not including violations involving an occupant protection system pursuant to section 60-6,270, parking violations, violations for operating a motor vehicle without a valid operator's license in the operator's possession, muffler violations, overwidth, overheight, or overlength violations, motorcycle or moped protective helmet violations, or overloading of trucks - 1 point.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 60-4,188.

In all cases, the forfeiture of bail not vacated shall be regarded as equivalent to the conviction of the offense with which the operator was charged.

The point system shall not apply to persons convicted of traffic

violations committed while operating a bicycle or an electric personal assistive mobility device as defined in section 60-618.02.

Sec. 4. Section 60-601, Reissue Revised Statutes of Nebraska, is amended to read:

60-601 Sections 60-601 to 60-6,377 and sections 6, 14, and 17 of this act shall be known and may be cited as the Nebraska Rules of the Road.

Sec. 5. Section 60-605, Reissue Revised Statutes of Nebraska, is amended to read:

60-605 For purposes of the Nebraska Rules of the Road, the definitions found in sections 60-606 to 60-676 and section 6 of this act shall be used.

Sec. 6. Continuous alcohol monitoring device means a portable device capable of automatically and periodically testing and recording alcohol consumption levels and automatically and periodically transmitting such information and tamper attempts regarding such device, regardless of the location of the person being monitored.

Sec. 7. Section 60-696, Reissue Revised Statutes of Nebraska, is amended to read:

60-696 (1) Except as provided in subsection (2) of this section, the driver of any vehicle involved in an accident either upon a public highway, private road, or private drive, resulting in damage to property, shall (a) immediately stop such vehicle at the scene of such accident and (b) give his or her name, address, telephone number, and ~~his or her~~ operator's license number to the owner of the property struck or the driver or occupants of any other vehicle involved in the collision.

(2) The driver of any vehicle involved in an accident either upon a public highway, private road, or private drive, resulting in damage to an unattended vehicle or property, shall immediately stop such vehicle and leave in a conspicuous place in or on the unattended vehicle or property a written notice containing the information required by subsection (1) of this section. In addition, such driver shall, without unnecessary delay, report the collision, by telephone or otherwise, to an appropriate peace officer.

(3) Any person violating subsection (1) or (2) of this section shall be guilty of a Class ~~III~~ II misdemeanor. If such person has had one or more convictions under this section in the twelve years prior to the date of the current conviction under this section, such person shall be guilty of a Class ~~II~~ I misdemeanor. As part of any sentence, suspended sentence, or judgment of conviction under this section, the court shall order the defendant not to drive any motor vehicle for any purpose in the State of Nebraska for ~~not less than thirty days nor more than a period of~~ a period of one year from the date ordered by the court.

Sec. 8. Section 60-697, Revised Statutes Supplement, 2005, is amended to read:

60-697 The driver of any vehicle involved in an accident upon either a public highway, private road, or private drive, resulting in injury or death to any person, shall (1) immediately stop such vehicle at the scene of such accident and ascertain the identity of all persons involved, (2) give his or her name and address and the license number of the vehicle and exhibit his or her operator's license to the person struck or the ~~driver or~~ occupants of any vehicle collided with, and (3) render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person. Any person violating any of the provisions of this section shall upon conviction thereof be punished as provided in section 60-698.

Sec. 9. 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 ~~IIIA~~ felony. 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~~ less than one year nor more than 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. 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. 10. Section 60-6,197.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,197.01 (1) Upon conviction for a second or subsequent violation of section 60-6,196 or 60-6,197, the court shall impose either of the following restrictions on all motor vehicles owned by the person so convicted:

~~(1)(a)~~ (a)(i) The court shall order the motor vehicle or motor

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

~~(b)-(i)~~ (ii) (A) Any immobilized motor vehicle shall be released by the court without any legal or physical restraints to any registered owner who is not the registered owner convicted of a second or subsequent violation of section 60-6,196 or 60-6,197 if an affidavit is submitted to the court by such registered owner stating that the affiant is employed, that the motor vehicle subject to immobilization is necessary to continue that employment, that such employment is necessary for the well-being of the affiant's dependent children or parents, that the affiant will not authorize the use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, that affiant will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by the affiant to have been convicted of a second or subsequent conviction of section 60-6,196 or 60-6,197, and that failure to release the motor vehicle would cause undue hardship to the affiant.

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

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

~~(2)~~ (b) As an alternative to subdivision ~~(1)~~ (1) (a) of this section, the court shall order the installation of an ignition interlock device on each of the owner's motor vehicles if the owner was sentenced to an operator's license revocation of at least one year and has completed at least one year of such revocation. No license reinstatement may occur until sufficient evidence is presented to the department that an ignition interlock device is installed on each vehicle and that the applicant is eligible for use of an ignition interlock device. The installation of an ignition interlock device shall be for a period not less than six months commencing upon the end of such year of the operator's license revocation. Notwithstanding any other provision of law, if the owner was convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, no ignition interlock device shall be ordered by any court or state agency under any circumstances until at least one year of the operator's license revocation shall have elapsed.

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

Sec. 11. Section 60-6,197.03, Revised Statutes Supplement, 2005, is amended to read:

60-6,197.03 Any person convicted of a violation of section 60-6,196 or 60-6,197 shall be punished as follows:

(1) ~~If~~ Except as provided in subdivision (2) of this section, if such person has not had a prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked or impounded for a period of six months from the date ordered by the court. Such revocation or impoundment shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked or impounded for a period of sixty days from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation or sentence suspension shall also include, as one of its conditions, the payment of a four-hundred-dollar fine;

(2) If such person has not had a prior conviction and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of one year from the date ordered by the court. Such revocation shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked or impounded for a period of one year from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05, and such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for two days or the imposition of not less than one hundred twenty hours of community service;

~~(2) (3)~~ Except as provided in subdivision (4) (5) of this section, if such person has had one prior conviction, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of one year from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01, ~~with respect to all motor vehicles owned by such person.~~ Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked or impounded for a period of one year from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, ~~with respect to all motor vehicles owned by such person,~~ and such order of probation or sentence suspension shall also include, as conditions, the payment of a five-hundred-dollar fine and either confinement in the city or county jail for ~~five ten~~ days or the imposition of not less than two hundred forty hours of community service;

~~(3) (4)~~ Except as provided in subdivision (4) (6) of this section, if such person has had two prior convictions, such person shall be guilty of a Class W misdemeanor, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01, ~~with respect to all motor vehicles owned by such person.~~ Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked ~~or impounded~~ for a period of ~~one year~~ at least two years but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, ~~with respect to all motor vehicles owned by such person,~~ and such order of probation or sentence suspension shall also include, as conditions, the payment of a six-hundred-dollar fine and ~~either~~ confinement in the city or county jail for ~~ten thirty~~ days; ~~or the imposition of not less than four hundred eighty hours of community service;~~

~~(4) (5)~~ If such person has had one ~~or two~~ prior convictions conviction and, as part of the current violation, had a concentration of ~~sixteen-hundredths~~ fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or ~~sixteen-hundredths~~

fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class I misdemeanor, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person ~~for any purpose~~ for a period of at least one year but not more than fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01, with respect to all motor vehicles owned by such person. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ~~thirty~~ ninety days' imprisonment in the city or county jail or an adult correctional facility.

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 that the operator's license of such person be revoked or impounded for a period of at least one year but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, with respect to all motor vehicles owned by such person, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and ~~either~~ confinement in the city or county jail for ~~ten~~ thirty days; ~~or the imposition of not less than four hundred eighty hours of community service;~~ and

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

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 that the operator's license of such person be revoked for a period of at least five years but not more than fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for sixty days;

~~(5) If~~ (7) Except as provided in subdivision (8) of this section, if such person has had three ~~or more~~ prior convictions, such person shall be guilty of a Class IV IIIA felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01, with respect to all motor vehicles owned by such person. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. The court shall also sentence such person to serve at least ~~ten~~ one hundred eighty days' imprisonment in the city or county jail or an adult correctional facility.

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 that the operator's license of such person be revoked ~~or impounded~~ for a period of ~~one year~~ fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, with respect to all motor vehicles owned by such person, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and ~~either~~ confinement in the city or county jail for ~~ten~~ ninety days; ~~or the imposition of not less than four hundred eighty hours of community service.~~

(8) If such person has had three prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred

ten liters of his or her breath, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred twenty days;

(9) Except as provided in subdivision (10) of this section, if such person has had four or more prior convictions, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, order that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such orders shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred eighty days; and

(10) If such person has had four or more prior convictions and, as part of the current violation, had a concentration of fifteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or fifteen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath, such person shall be guilty of a Class II felony and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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 that the operator's license of such person be revoked for a period of fifteen years from the date ordered by the court unless otherwise authorized by an order issued pursuant to section 60-6,211.05 and shall issue an order pursuant to section 60-6,197.01, and such order of probation or sentence suspension shall also include, as conditions, the payment of a one-thousand-dollar fine and confinement in the city or county jail for one hundred eighty days.

Sec. 12. Section 60-6,197.06, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,197.06 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 ~~(3)~~ ~~or~~ (4), (5), (6), (7), (8), (9), or (10) of section 60-6,197.03 or section 60-6,198, or pursuant to subdivision (2)(c) or (2)(d) of section 60-6,196 or subdivision (4)(c) or (4)(d) of section 60-6,197, as such subdivisions existed prior to July 16, 2004, shall be guilty of a Class IV felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for a period of fifteen years from the date ordered by the court and shall issue an order pursuant to section 60-6,197.01. Such revocation and order shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked. If such person has had a conviction under this section or under subsection (6) of section 60-6,196 or subsection (7) of section 60-6,197, as such subsections existed prior to July 16, 2004, prior to the date of the current conviction under this section, such person shall be guilty of a Class III felony, and the court shall, as part of the judgment of conviction, revoke the operator's license of such person for

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

Sec. 13. Section 60-6,197.08, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,197.08 Any person who has been convicted of driving while intoxicated shall, during a presentence evaluation, submit to and participate in an alcohol assessment by a licensed alcohol and drug counselor. 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 addition to any penalties deemed necessary.

Sec. 14. Notwithstanding the provisions of section 60-498.02 or 60-6,197.03, a person who commits a violation punishable under subdivision (3) (b) or (c) of section 28-306 or a violation of section 60-6,196, 60-6,197, or 60-6,198 while participating in criminal proceedings for a violation of section 60-6,196, 60-6,197, or 60-6,198, or a city or village ordinance enacted in accordance with section 60-6,196 or 60-6,197, or a law of another state if, at the time of the violation under the law of such other state, the offense for which the person was charged would have been a violation of section 60-6,197, shall not be eligible to receive a sentence of probation, a suspended sentence, or an employment driving permit authorized under subsection (2) of section 60-498.02 for either violation committed in this state.

Sec. 15. Section 60-6,210, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,210 (1) If the driver of a motor vehicle involved in an accident is transported to a hospital within or outside of Nebraska and a sample of the driver's blood is withdrawn by a physician, registered nurse, qualified technician, or hospital for the purpose of medical treatment, the results of a chemical test of the sample shall be admissible in a criminal prosecution for a violation ~~of section~~ punishable under subdivision (3) (b) or (c) of section 28-306 or a violation of section 28-305, 60-6,196, or 60-6,198 to show the alcoholic content of or the presence of drugs or both in the blood at the time of the accident regardless of whether (a) a peace officer requested the driver to submit to a test as provided in section 60-6,197 or (b) the driver had refused a chemical test.

(2) Any physician, registered nurse, qualified technician, or hospital in this state performing a chemical test to determine the alcoholic content of or the presence of drugs in such blood for the purpose of medical treatment of the driver of a vehicle involved in a motor vehicle accident shall disclose the results of the test (a) to a prosecuting attorney who requests the results for use in a criminal prosecution under ~~section~~ subdivision (3) (b) or (c) of section 28-306 or section 28-305, 60-6,196, or 60-6,198 and (b) to any prosecuting attorney in another state who requests the results for use in a criminal prosecution for driving while intoxicated, driving under the influence, or motor vehicle homicide under the laws of the other state if the other state requires a similar disclosure by any hospital or person in such state to any prosecuting attorney in Nebraska who requests the results for use in such a criminal prosecution under the laws of Nebraska.

Sec. 16. 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, as such sections existed prior to July 16, 2004, or section 60-6,196 or 60-6,197 and sections 60-6,197.02 and 60-6,197.03, as such sections existed on or after July 16, 2004, 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 60-498.02.~~ 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 installation of an ignition interlock device pursuant to subsection (1) of this section, the court may also order the use of a continuous alcohol monitoring device and abstention from alcohol use at all times. The device shall, without tampering or the intervention of another person, test and record the alcohol consumption level of the defendant on a periodic basis and transmit such information to probation authorities.

(3) 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 60-498.02.

~~(2)~~ (4) If the court orders an ignition interlock device or the Board of Pardons orders an ignition interlock device under section 83-1,127.02, 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 60-4,118.06 which indicates that the defendant is only allowed to operate a motor vehicle equipped with an ignition interlock device. 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)~~ (5) 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)~~ (6) 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~~ such device, or who operates a motor vehicle equipped with an ignition interlock device which if the device has been disabled, bypassed, or altered in any way, shall be punished as provided in subsection (3) of section 83-1,127.02.

(7) If a person ordered to use a continuous alcohol monitoring device and abstain from alcohol use pursuant to a court order as provided in subsection (2) of this section violates the provisions of such court order by removing, tampering with, or otherwise bypassing the continuous alcohol monitoring device or by consuming alcohol while required to use such device, he or she shall have his or her Class O license revoked and be unable to apply for license reinstatement for the duration of the revocation period imposed by the court.

~~(5)~~ (8) The director shall adopt and promulgate rules and regulations to approve ignition interlock devices and the means of installation of the devices.

Sec. 17. The Office of Probation Administration shall adopt and promulgate rules and regulations to approve the use of continuous alcohol monitoring devices by individuals sentenced to probation for violating section 60-6,196 or 60-6,197.

Sec. 18. Original sections 60-497.01, 60-4,182, 60-601, 60-605, 60-696, 60-698, 60-6,197.01, 60-6,197.06, 60-6,197.08, 60-6,210, and 60-6,211.05, Reissue Revised Statutes of Nebraska, section 28-306, Revised Statutes Cumulative Supplement, 2004, and sections 60-697 and 60-6,197.03, Revised Statutes Supplement, 2005, are repealed.