

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 158**

Introduced by Seiler, 33.

Read first time January 14, 2013

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend section 60-6,197.01,  
2 Reissue Revised Statutes of Nebraska, and section  
3 60-6,197.03, Revised Statutes Cumulative Supplement,  
4 2012; to change provisions relating to ignition interlock  
5 devices; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 60-6,197.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           60-6,197.01 (1) Upon conviction for a violation described  
4 in section 60-6,197.06 or a second or subsequent violation of section  
5 60-6,196 or 60-6,197, the court shall impose either of the following  
6 restrictions:

7           (a)(i) The court shall order all motor vehicles owned by  
8 the person so convicted immobilized at the owner's expense for a  
9 period of time not less than five days and not more than eight months  
10 and shall notify the Department of Motor Vehicles of the period of  
11 immobilization. Any immobilized motor vehicle shall be released to  
12 the holder of a bona fide lien on the motor vehicle executed prior to  
13 such immobilization when possession of the motor vehicle is requested  
14 as provided by law by such lienholder for purposes of foreclosing and  
15 satisfying such lien. If a person tows and stores a motor vehicle  
16 pursuant to this subdivision at the direction of a peace officer or  
17 the court and has a lien upon such motor vehicle while it is in his  
18 or her possession for reasonable towing and storage charges, the  
19 person towing the vehicle has the right to retain such motor vehicle  
20 until such lien is paid. For purposes of this subdivision,  
21 immobilized or immobilization means revocation or suspension, at the  
22 discretion of the court, of the registration of such motor vehicle or  
23 motor vehicles, including the license plates; and

24           (ii)(A) Any immobilized motor vehicle shall be released  
25 by the court without any legal or physical restraints to any

1 registered owner who is not the registered owner convicted of a  
2 second or subsequent violation of section 60-6,196 or 60-6,197 if an  
3 affidavit is submitted to the court by such registered owner stating  
4 that the affiant is employed, that the motor vehicle subject to  
5 immobilization is necessary to continue that employment, that such  
6 employment is necessary for the well-being of the affiant's dependent  
7 children or parents, that the affiant will not authorize the use of  
8 the motor vehicle by any person known by the affiant to have been  
9 convicted of a second or subsequent violation of section 60-6,196 or  
10 60-6,197, that affiant will immediately report to a local law  
11 enforcement agency any unauthorized use of the motor vehicle by any  
12 person known by the affiant to have been convicted of a second or  
13 subsequent conviction of section 60-6,196 or 60-6,197, and that  
14 failure to release the motor vehicle would cause undue hardship to  
15 the affiant.

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

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

25 (b) As an alternative to subdivision (1)(a) of this

1 section, the court shall order the convicted person, in order to  
2 operate a motor vehicle, to obtain an ignition interlock permit and  
3 install an ignition interlock device on each motor vehicle owned or  
4 operated by the convicted person if he or she was sentenced to an  
5 operator's license revocation of at least one year. If the person's  
6 operator's license has been revoked for at least a one-year period,  
7 after a minimum of a forty-five-day no driving period, the person may  
8 operate a motor vehicle with an ignition interlock permit and an  
9 ignition interlock device pursuant to this subdivision and shall  
10 retain the ignition interlock permit and ignition interlock device  
11 for not less than ~~the remainder of a~~ one-year period or the period of  
12 revocation ordered by the court, whichever is longer. No ignition  
13 interlock permit may be issued until sufficient evidence is presented  
14 to the department that an ignition interlock device is installed on  
15 each vehicle and that the applicant is eligible for use of an  
16 ignition interlock device.

17 (2) In addition to the restrictions required by  
18 subdivision (1)(b) of this section, the court may require a person  
19 convicted of a second or subsequent violation of section 60-6,196 or  
20 60-6,197 to use a continuous alcohol monitoring device and abstain  
21 from alcohol use for a period of time not to exceed the maximum term  
22 of license revocation ordered by the court. A continuous alcohol  
23 monitoring device shall not be ordered for a person convicted of a  
24 second or subsequent violation unless the installation of an ignition  
25 interlock device is also required.

1           Sec. 2. Section 60-6,197.03, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           60-6,197.03 Any person convicted of a violation of  
4 section 60-6,196 or 60-6,197 shall be punished as follows:

5           (1) Except as provided in subdivision (2) of this  
6 section, if such person has not had a prior conviction, such person  
7 shall be guilty of a Class W misdemeanor, and the court shall, as  
8 part of the judgment of conviction, order that the operator's license  
9 of such person be revoked for a period of six months from the date  
10 ordered by the court. The revocation order shall require that the  
11 person apply for an ignition interlock permit pursuant to section  
12 60-6,211.05 for the revocation period and have an ignition interlock  
13 device installed on any motor vehicle he or she operates during the  
14 revocation period. Such revocation shall be administered upon  
15 sentencing, upon final judgment of any appeal or review, or upon the  
16 date that any probation is revoked.

17           If the court places such person on probation or suspends  
18 the sentence for any reason, the court shall, as one of the  
19 conditions of probation or sentence suspension, order that the  
20 operator's license of such person be revoked for a period of sixty  
21 days from the date ordered by the court. The court shall order that  
22 during the period of revocation the person apply for an ignition  
23 interlock permit pursuant to section 60-6,211.05. Such order of  
24 probation or sentence suspension shall also include, as one of its  
25 conditions, the payment of a five-hundred-dollar fine;

1                   (2) If such person has not had a prior conviction and, as  
2 part of the current violation, had a concentration of fifteen-  
3 hundredths of one gram or more by weight of alcohol per one hundred  
4 milliliters of his or her blood or fifteen-hundredths of one gram or  
5 more by weight of alcohol per two hundred ten liters of his or her  
6 breath, such person shall be guilty of a Class W misdemeanor, and the  
7 court shall, as part of the judgment of conviction, revoke the  
8 operator's license of such person for a period of one year from the  
9 date ordered by the court. The revocation order shall require that  
10 the person apply for an ignition interlock permit pursuant to  
11 subdivision (1)(b) of section 60-6,197.01 for the revocation period  
12 and have an ignition interlock device installed on any motor vehicle  
13 he or she operates during the revocation period. Such revocation  
14 shall be administered upon sentencing, upon final judgment of any  
15 appeal or review, or upon the date that any probation is revoked.

16                   If the court places such person on probation or suspends  
17 the sentence for any reason, the court shall, as one of the  
18 conditions of probation or sentence suspension, order that the  
19 operator's license of such person be revoked for a period of one year  
20 from the date ordered by the court. The revocation order shall  
21 require that the person apply for an ignition interlock permit  
22 pursuant to subdivision (1)(b) of section 60-6,197.01 for the  
23 revocation period and have an ignition interlock device installed on  
24 any motor vehicle he or she operates during the revocation period.  
25 Such revocation shall be administered upon sentencing, upon final

1 judgment of any appeal or review, or upon the date that any probation  
2 is revoked. Such order of probation or sentence suspension shall also  
3 include, as conditions, the payment of a five-hundred-dollar fine and  
4 either confinement in the city or county jail for two days or the  
5 imposition of not less than one hundred twenty hours of community  
6 service;

7 (3) Except as provided in subdivision (5) of this  
8 section, if such person has had one prior conviction, such person  
9 shall be guilty of a Class W misdemeanor, and the court shall, as  
10 part of the judgment of conviction, order that the operator's license  
11 of such person be revoked for a period of one year from the date  
12 ordered by the court. The revocation order shall require that the  
13 person not drive for a period of forty-five days, after which the  
14 court shall order that the person apply for an ignition interlock  
15 permit for ~~the remainder of the revocation~~ not less than a one-year  
16 period and have an ignition interlock device installed on any motor  
17 vehicle he or she owns or operates during the ~~remainder of the~~  
18 ~~revocation~~ one-year period and shall issue an order pursuant to  
19 subdivision (1)(b) of section 60-6,197.01. Such revocation shall be  
20 administered upon sentencing, upon final judgment of any appeal or  
21 review, or upon the date that any probation is revoked.

22 If the court places such person on probation or suspends  
23 the sentence for any reason, the court shall, as one of the  
24 conditions of probation or sentence suspension, order that the  
25 operator's license of such person be revoked for a period of one year

1 from the date ordered by the court. The revocation order shall  
2 require that the person not drive for a period of forty-five days,  
3 after which the court shall order that ~~during the period of~~  
4 ~~revocation~~ the person apply for an ignition interlock permit and  
5 installation of an ignition interlock device for not less than a one-  
6 year period pursuant to section 60-6,211.05 and shall issue an order  
7 pursuant to subdivision (1)(b) of section 60-6,197.01. Such order of  
8 probation or sentence suspension shall also include, as conditions,  
9 the payment of a five-hundred-dollar fine and either confinement in  
10 the city or county jail for ten days or the imposition of not less  
11 than two hundred forty hours of community service;

12 (4) Except as provided in subdivision (6) of this  
13 section, if such person has had two prior convictions, such person  
14 shall be guilty of a Class W misdemeanor, and the court shall, as  
15 part of the judgment of conviction, order that the operator's license  
16 of such person be revoked for a period of fifteen years from the date  
17 ordered by the court and shall issue an order pursuant to section  
18 60-6,197.01. Such orders shall be administered upon sentencing, upon  
19 final judgment of any appeal or review, or upon the date that any  
20 probation is revoked.

21 If the court places such person on probation or suspends  
22 the sentence for any reason, the court shall, as one of the  
23 conditions of probation or sentence suspension, order that the  
24 operator's license of such person be revoked for a period of at least  
25 two years but not more than fifteen years from the date ordered by



1 the court. The revocation order shall require that the person not  
2 drive for a period of forty-five days, after which the court may  
3 order that during the period of revocation the person apply for an  
4 ignition interlock permit and installation of an ignition interlock  
5 device issued pursuant to section 60-6,211.05 and shall issue an  
6 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such  
7 order of probation or sentence suspension shall also include, as  
8 conditions, the payment of a one-thousand-dollar fine and confinement  
9 in the city or county jail for thirty days;

10 (5) If such person has had one prior conviction and, as  
11 part of the current violation, had a concentration of fifteen-  
12 hundredths of one gram or more by weight of alcohol per one hundred  
13 milliliters of his or her blood or fifteen-hundredths of one gram or  
14 more by weight of alcohol per two hundred ten liters of his or her  
15 breath or refused to submit to a test as required under section  
16 60-6,197, such person shall be guilty of a Class I misdemeanor, and  
17 the court shall, as part of the judgment of conviction, order payment  
18 of a one-thousand-dollar fine and revoke the operator's license of  
19 such person for a period of at least one year but not more than  
20 fifteen years from the date ordered by the court and shall issue an  
21 order pursuant to section 60-6,197.01. Such revocation and order  
22 shall be administered upon sentencing, upon final judgment of any  
23 appeal or review, or upon the date that any probation is revoked. The  
24 court shall also sentence such person to serve at least ninety days'  
25 imprisonment in the city or county jail or an adult correctional

1 facility.

2           If the court places such person on probation or suspends  
3 the sentence for any reason, the court shall, as one of the  
4 conditions of probation or sentence suspension, order that the  
5 operator's license of such person be revoked for a period of at least  
6 one year but not more than fifteen years from the date ordered by the  
7 court. The revocation order shall require that the person not drive  
8 for a period of forty-five days, after which the court may order that  
9 during the period of revocation the person apply for an ignition  
10 interlock permit and installation of an ignition interlock device for  
11 not less than a one-year period issued pursuant to section  
12 60-6,211.05 and shall issue an order pursuant to subdivision (1)(b)  
13 of section 60-6,197.01. Such order of probation or sentence  
14 suspension shall also include, as conditions, the payment of a one-  
15 thousand-dollar fine and confinement in the city or county jail for  
16 thirty days;

17           (6) If such person has had two prior convictions and, as  
18 part of the current violation, had a concentration of fifteen-  
19 hundredths of one gram or more by weight of alcohol per one hundred  
20 milliliters of his or her blood or fifteen-hundredths of one gram or  
21 more by weight of alcohol per two hundred ten liters of his or her  
22 breath or refused to submit to a test as required under section  
23 60-6,197, such person shall be guilty of a Class IIIA felony, and the  
24 court shall, as part of the judgment of conviction, revoke the  
25 operator's license of such person for a period of fifteen years from

1 the date ordered by the court and shall issue an order pursuant to  
2 section 60-6,197.01. Such revocation and order shall be administered  
3 upon sentencing, upon final judgment of any appeal or review, or upon  
4 the date that any probation is revoked. The court shall also sentence  
5 such person to serve at least one hundred eighty days' imprisonment  
6 in the city or county jail or an adult correctional facility.

7           If the court places such person on probation or suspends  
8 the sentence for any reason, the court shall, as one of the  
9 conditions of probation or sentence suspension, order that the  
10 operator's license of such person be revoked for a period of at least  
11 five years but not more than fifteen years from the date ordered by  
12 the court. The revocation order shall require that the person not  
13 drive for a period of forty-five days, after which the court may  
14 order that during the period of revocation the person apply for an  
15 ignition interlock permit and installation of an ignition interlock  
16 device issued pursuant to section 60-6,211.05 and shall issue an  
17 order pursuant to subdivision (1)(b) of section 60-6,197.01. Such  
18 order of probation or sentence suspension shall also include, as  
19 conditions, the payment of a one-thousand-dollar fine, confinement in  
20 the city or county jail for sixty days, and, upon release from such  
21 confinement, the use of a continuous alcohol monitoring device and  
22 abstention from alcohol use at all times for no less than sixty days;

23           (7) Except as provided in subdivision (8) of this  
24 section, if such person has had three prior convictions, such person  
25 shall be guilty of a Class IIIA felony, and the court shall, as part

1 of the judgment of conviction, order that the operator's license of  
2 such person be revoked for a period of fifteen years from the date  
3 ordered by the court and shall issue an order pursuant to section  
4 60-6,197.01. Such orders shall be administered upon sentencing, upon  
5 final judgment of any appeal or review, or upon the date that any  
6 probation is revoked. The court shall also sentence such person to  
7 serve at least one hundred eighty days' imprisonment in the city or  
8 county jail or an adult correctional facility.

9           If the court places such person on probation or suspends  
10 the sentence for any reason, the court shall, as one of the  
11 conditions of probation or sentence suspension, order that the  
12 operator's license of such person be revoked for a period of fifteen  
13 years from the date ordered by the court. The revocation order shall  
14 require that the person not drive for a period of forty-five days,  
15 after which the court may order that during the period of revocation  
16 the person apply for an ignition interlock permit and installation of  
17 an ignition interlock device issued pursuant to section 60-6,211.05  
18 and shall issue an order pursuant to subdivision (1)(b) of section  
19 60-6,197.01. Such order of probation or sentence suspension shall  
20 also include, as conditions, the payment of a two-thousand-dollar  
21 fine, confinement in the city or county jail for ninety days, and,  
22 upon release from such confinement, the use of a continuous alcohol  
23 monitoring device and abstention from alcohol use at all times for no  
24 less than ninety days;

25           (8) If such person has had three prior convictions and,

1 as part of the current violation, had a concentration of fifteen-  
2 hundredths of one gram or more by weight of alcohol per one hundred  
3 milliliters of his or her blood or fifteen-hundredths of one gram or  
4 more by weight of alcohol per two hundred ten liters of his or her  
5 breath or refused to submit to a test as required under section  
6 60-6,197, such person shall be guilty of a Class III felony, and the  
7 court shall, as part of the judgment of conviction, revoke the  
8 operator's license of such person for a period of fifteen years from  
9 the date ordered by the court and shall issue an order pursuant to  
10 section 60-6,197.01. Such revocation and order shall be administered  
11 upon sentencing, upon final judgment of any appeal or review, or upon  
12 the date that any probation is revoked.

13           If the court places such person on probation or suspends  
14 the sentence for any reason, the court shall, as one of the  
15 conditions of probation or sentence suspension, order that the  
16 operator's license of such person be revoked for a period of fifteen  
17 years from the date ordered by the court. The revocation order shall  
18 require that the person not drive for a period of forty-five days,  
19 after which the court may order that during the period of revocation  
20 the person apply for an ignition interlock permit and installation of  
21 an ignition interlock device issued pursuant to section 60-6,211.05  
22 and shall issue an order pursuant to subdivision (1)(b) of section  
23 60-6,197.01. Such order of probation or sentence suspension shall  
24 also include, as conditions, the payment of a two-thousand-dollar  
25 fine, confinement in the city or county jail for one hundred twenty

1 days, and, upon release from such confinement, the use of a  
2 continuous alcohol monitoring device and abstention from alcohol use  
3 at all times for no less than one hundred twenty days;

4 (9) Except as provided in subdivision (10) of this  
5 section, if such person has had four or more prior convictions, such  
6 person shall be guilty of a Class III felony with a minimum sentence  
7 of two years' imprisonment, and the court shall, as part of the  
8 judgment of conviction, order that the operator's license of such  
9 person be revoked for a period of fifteen years from the date ordered  
10 by the court and shall issue an order pursuant to section  
11 60-6,197.01. Such orders shall be administered upon sentencing, upon  
12 final judgment of any appeal or review, or upon the date that any  
13 probation is revoked.

14 If the court places such person on probation or suspends  
15 the sentence for any reason, the court shall, as one of the  
16 conditions of probation or sentence suspension, order that the  
17 operator's license of such person be revoked for a period of fifteen  
18 years from the date ordered by the court. The revocation order shall  
19 require that the person not drive for a period of forty-five days,  
20 after which the court may order that during the period of revocation  
21 the person apply for an ignition interlock permit and installation of  
22 an ignition interlock device issued pursuant to section 60-6,211.05  
23 and shall issue an order pursuant to subdivision (1)(b) of section  
24 60-6,197.01. Such order of probation or sentence suspension shall  
25 also include, as conditions, the payment of a two-thousand-dollar

1 fine, confinement in the city or county jail for one hundred eighty  
2 days, and, upon release from such confinement, the use of a  
3 continuous alcohol monitoring device and abstention from alcohol use  
4 at all times for no less than one hundred eighty days; and

5 (10) If such person has had four or more prior  
6 convictions and, as part of the current violation, had a  
7 concentration of fifteen-hundredths of one gram or more by weight of  
8 alcohol per one hundred milliliters of his or her blood or fifteen-  
9 hundredths of one gram or more by weight of alcohol per two hundred  
10 ten liters of his or her breath or refused to submit to a test as  
11 required under section 60-6,197, such person shall be guilty of a  
12 Class II felony with a minimum sentence of two years' imprisonment  
13 and the court shall, as part of the judgment of conviction, revoke  
14 the operator's license of such person for a period of fifteen years  
15 from the date ordered by the court and shall issue an order pursuant  
16 to section 60-6,197.01. Such revocation and order shall be  
17 administered upon sentencing, upon final judgment of any appeal or  
18 review, or upon the date that any probation is revoked.

19 If the court places such person on probation or suspends  
20 the sentence for any reason, the court shall, as one of the  
21 conditions of probation or sentence suspension, order that the  
22 operator's license of such person be revoked for a period of fifteen  
23 years from the date ordered by the court. The revocation order shall  
24 require that the person not drive for a period of forty-five days,  
25 after which the court may order that during the period of revocation

1 the person apply for an ignition interlock permit and installation of  
2 an ignition interlock device issued pursuant to section 60-6,211.05  
3 and shall issue an order pursuant to subdivision (1)(b) of section  
4 60-6,197.01. Such order of probation or sentence suspension shall  
5 also include, as conditions, the payment of a two-thousand-dollar  
6 fine, confinement in the city or county jail for one hundred eighty  
7 days, and, upon release from such confinement, the use of a  
8 continuous alcohol monitoring device and abstention from alcohol use  
9 at all times for no less than one hundred eighty days.

10           Sec. 3. Original section 60-6,197.01, Reissue Revised  
11 Statutes of Nebraska, and section 60-6,197.03, Revised Statutes  
12 Cumulative Supplement, 2012, are repealed.