

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1340**

Introduced by Kauth, 31.

Read first time January 17, 2024

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to motor vehicles; to amend sections 28-306,  
2 60-4,120.01, 60-4,123, 60-682.01, 60-6,165, and 60-6,179.01, Reissue  
3 Revised Statutes of Nebraska, and section 60-4,124, Revised Statutes  
4 Cumulative Supplement, 2022; to change provisions relating to motor  
5 vehicle homicide; to change the enforcement of a violation of the  
6 use of any interactive or handheld wireless communication device  
7 while operating a motor vehicle as prescribed; to change provisions  
8 relating to speed limit violations; to change provisions relating to  
9 persons who are authorized to remove vehicles from highways; to  
10 provide and change fines and penalties; to harmonize provisions; and  
11 to repeal the original sections.  
12 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-306, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           28-306 (1) A person who causes the death of another unintentionally  
4 while engaged in the operation of a motor vehicle in violation of the law  
5 of the State of Nebraska or in violation of any city or village ordinance  
6 commits motor vehicle homicide.

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

9           (3)(a) If the proximate cause of the death of another is the  
10 operation of a motor vehicle in violation of section 60-6,179.01,  
11 60-6,179.02, 60-6,213, or 60-6,214, motor vehicle homicide is a Class  
12 IIIA felony.

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

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

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

5 (4) The crime punishable under this section shall be treated as a  
6 separate and distinct offense from any other offense arising out of acts  
7 alleged to have been committed while the person was in violation of this  
8 section.

9 Sec. 2. Section 60-4,120.01, Reissue Revised Statutes of Nebraska,  
10 is amended to read:

11 60-4,120.01 (1)(a) Any person who is at least sixteen years of age  
12 but less than eighteen years of age may be issued a provisional  
13 operator's permit by the Department of Motor Vehicles. The provisional  
14 operator's permit shall expire on the applicant's eighteenth birthday.

15 (b) No provisional operator's permit shall be issued to any person  
16 unless such person:

17 (i) Has possessed a valid LPD-learner's permit, LPE-learner's  
18 permit, or SCP-school permit for at least a six-month period beginning on  
19 the date of issuance of such person's LPD-learner's permit, LPE-learner's  
20 permit, or SCP-school permit; and

21 (ii) Has not accumulated three or more points pursuant to section  
22 60-4,182 during the six-month period immediately preceding the date of  
23 the application for the provisional operator's permit.

24 (c) The requirements for the provisional operator's permit  
25 prescribed in subdivisions (2)(a) and (b) of this section may be  
26 completed prior to the applicant's sixteenth birthday. A person may apply  
27 for a provisional operator's permit and take the driving test and the  
28 written examination, if required, at any time within sixty days prior to  
29 his or her sixteenth birthday upon proof of age in the manner provided in  
30 section 60-484.

31 (2) In order to obtain a provisional operator's permit, the

1 applicant shall present (a)(i) proof of successful completion of a  
2 department-approved driver safety course which includes behind-the-wheel  
3 driving specifically emphasizing (A) the effects of the consumption of  
4 alcohol on a person operating a motor vehicle, (B) occupant protection  
5 systems, (C) risk assessment, and (D) railroad crossing safety and (ii)  
6 proof of successful completion of a written examination and driving test  
7 administered by a driver safety course instructor or (b) a certificate in  
8 a form prescribed by the department, signed by a parent, guardian, or  
9 licensed driver at least twenty-one years of age, verifying that the  
10 applicant has completed fifty hours of lawful motor vehicle operation  
11 including at least ten hours of motor vehicle operation between sunset  
12 and sunrise, under conditions that reflect department-approved driver  
13 safety course curriculum, with a parent, guardian, or adult at least  
14 twenty-one years of age, who has a current Nebraska operator's license or  
15 who is licensed in another state. If the applicant presents such a  
16 certificate, the applicant shall be required to successfully complete a  
17 driving test administered by the department. The written examination  
18 shall be waived if the applicant has been issued a Nebraska LPD-learner's  
19 permit or has been issued a Nebraska LPE-learner's permit and such permit  
20 is valid or has been expired for no more than one year. However, the  
21 department shall not waive the written examination if the provisional  
22 operator's permit being applied for contains a class or endorsement which  
23 is different from the class or endorsement of the LPD-learner's or LPE-  
24 learner's permit. Upon presentation by the applicant of a form prescribed  
25 by the department showing successful completion of the driver safety  
26 course, the written examination and driving test may be waived. Upon  
27 presentation of the certificate, the written examination but not the  
28 driving test may be waived. Licensing staff shall waive the written  
29 examination and the driving test if the applicant has been issued a  
30 school permit and such permit is valid or has expired no more than one  
31 year prior to application. The written examination shall not be waived if

1 the provisional operator's permit being applied for contains a class or  
2 endorsement which is different from the class or endorsement of the  
3 school permit.

4 (3)(a) The holder of a provisional operator's permit shall only  
5 operate a motor vehicle on the highways of this state during the period  
6 beginning at 6 a.m. and ending at 12 midnight except when he or she is en  
7 route to or from his or her residence to his or her place of employment  
8 or a school activity. The holder of a provisional operator's permit may  
9 operate a motor vehicle on the highways of this state at any hour of the  
10 day or night if accompanied by a parent, guardian, or adult at least  
11 twenty-one years of age, who has a current Nebraska operator's license or  
12 who is licensed in another state.

13 (b) The holder of a provisional operator's permit shall only operate  
14 a motor vehicle on the highways of this state during the first six months  
15 of holding the permit with no more than one passenger who is not an  
16 immediate family member and who is under nineteen years of age.

17 (c) The holder of a provisional operator's permit shall not use any  
18 type of interactive wireless communication device while operating a motor  
19 vehicle on the highways of this state.

20 (d) Enforcement of subdivisions (a) and (b) , ~~(b), and (c)~~ of this  
21 subsection shall be accomplished only as a secondary action when the  
22 holder of the provisional operator's permit has been cited or charged  
23 with a violation of some other law.

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

27 Sec. 3. Section 60-4,123, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 60-4,123 (1) Any person who is at least fifteen years of age may  
30 apply for an LPD-learner's permit from the department. In order to obtain  
31 an LPD-learner's permit, the applicant shall successfully complete a

1 written examination. A person may take the written examination beginning  
2 sixty days prior to his or her fifteenth birthday but shall not be issued  
3 a permit until he or she is fifteen years of age. The written examination  
4 may be waived for any person who has been issued an LPE-learner's permit,  
5 LPD-learner's permit, or SCP-school permit that has been expired for no  
6 more than one year.

7 (2) Upon successful completion of the written examination and the  
8 payment of a fee and surcharge as prescribed in section 60-4,115, the  
9 applicant shall be issued an LPD-learner's permit as provided in section  
10 60-4,113. The permit shall be valid for twelve months.

11 (3)(a) The holder of an LPD-learner's permit shall only operate a  
12 motor vehicle on the highways of this state if he or she is accompanied  
13 at all times by a licensed operator who is at least twenty-one years of  
14 age and who has been licensed by this state or another state and if (i)  
15 for all motor vehicles other than autocycles, motorcycles, or mopeds, he  
16 or she is actually occupying the seat beside the licensed operator, (ii)  
17 in the case of an autocycle, he or she is actually occupying the seat  
18 beside or in front of the licensed operator, or (iii) in the case of a  
19 motorcycle, other than an autocycle, or a moped, he or she is within  
20 visual contact of and under the supervision of, in the case of a  
21 motorcycle, a licensed motorcycle operator or, in the case of a moped, a  
22 licensed motor vehicle operator.

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

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

1           Sec. 4. Section 60-4,124, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3           60-4,124 (1) A person who is younger than sixteen years and three  
4 months of age but is older than fourteen years and two months of age may  
5 be issued a school permit if such person either resides outside a city of  
6 the metropolitan, primary, or first class or attends a school which is  
7 outside a city of the metropolitan, primary, or first class and if such  
8 person has held an LPE-learner's permit for two months. A school permit  
9 shall not be issued until such person has demonstrated that he or she is  
10 capable of successfully operating a motor vehicle, moped, or motorcycle  
11 and has in his or her possession an issuance certificate authorizing the  
12 county treasurer to issue a school permit. In order to obtain an issuance  
13 certificate, the applicant shall present (a) proof of successful  
14 completion of a department-approved driver safety course which includes  
15 behind-the-wheel driving specifically emphasizing (i) the effects of the  
16 consumption of alcohol on a person operating a motor vehicle, (ii)  
17 occupant protection systems, (iii) risk assessment, and (iv) railroad  
18 crossing safety and (b)(i) proof of successful completion of a written  
19 examination and driving test administered by a driver safety course  
20 instructor or (ii) a certificate in a form prescribed by the department,  
21 signed by a parent, guardian, or licensed driver at least twenty-one  
22 years of age, verifying that the applicant has completed fifty hours of  
23 lawful motor vehicle operation, under conditions that reflect department-  
24 approved driver safety course curriculum, with a parent, guardian, or  
25 adult at least twenty-one years of age, who has a current Nebraska  
26 operator's license or who is licensed in another state. The department  
27 may waive the written examination if the applicant has been issued an  
28 LPE-learner's permit or LPD-learner's permit and if such permit is valid  
29 or has expired no more than one year prior to application. The written  
30 examination shall not be waived if the permit being applied for contains  
31 a class or endorsement which is different from the class or endorsement

1 of the LPE-learner's permit.

2 (2) A person holding a school permit may operate a motor vehicle,  
3 moped, or motorcycle or an autocycle:

4 (a) To and from where he or she attends school, or property used by  
5 the school he or she attends for purposes of school events or functions,  
6 over the most direct and accessible route by the nearest highway from his  
7 or her place of residence to transport such person or any family member  
8 who resides with such person to attend duly scheduled courses of  
9 instruction and extracurricular or school-related activities at the  
10 school he or she attends or on property used by the school he or she  
11 attends; or

12 (b) Under the personal supervision of a licensed operator. Such  
13 licensed operator shall be at least twenty-one years of age and licensed  
14 by this state or another state and shall (i) for all motor vehicles other  
15 than autocycles, motorcycles, or mopeds, actually occupy the seat beside  
16 the permitholder, (ii) in the case of an autocycle, actually occupy the  
17 seat beside or behind the permitholder, or (iii) in the case of a  
18 motorcycle, other than an autocycle, or a moped, if the permitholder is  
19 within visual contact of and under the supervision of, in the case of a  
20 motorcycle, a licensed motorcycle operator or, in the case of a moped, a  
21 licensed motor vehicle operator.

22 (3) The holder of a school permit shall not use any type of  
23 interactive wireless communication device while operating a motor vehicle  
24 on the highways of this state. ~~Enforcement of this subsection shall be  
25 accomplished only as a secondary action when the holder of the school  
26 permit has been cited or charged with a violation of some other law.~~

27 (4) A person who is younger than sixteen years of age but is over  
28 fourteen years of age may be issued an LPE-learner's permit, which permit  
29 shall be valid for a period of six months. An LPE-learner's permit shall  
30 not be issued until such person successfully completes a written  
31 examination prescribed by the department and demonstrates that he or she



1 has sufficient powers of eyesight to safely operate a motor vehicle,  
2 moped, or motorcycle or an autocycle.

3 (5)(a) While holding the LPE-learner's permit, the person may  
4 operate a motor vehicle on the highways of this state if (i) for all  
5 motor vehicles other than autocycles, motorcycles, or mopeds, he or she  
6 has seated next to him or her a person who is a licensed operator, (ii)  
7 in the case of an autocycle, he or she has seated next to or behind him  
8 or her a person who is a licensed operator, or (iii) in the case of a  
9 motorcycle, other than an autocycle, or a moped, he or she is within  
10 visual contact of and is under the supervision of a person who, in the  
11 case of a motorcycle, is a licensed motorcycle operator or, in the case  
12 of a moped, is a licensed motor vehicle operator. Such licensed motor  
13 vehicle or motorcycle operator shall be at least twenty-one years of age  
14 and licensed by this state or another state.

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

21 (6) Department personnel or the county treasurer shall collect the  
22 fee and surcharge prescribed in section 60-4,115 from each successful  
23 applicant for a school or LPE-learner's permit. All school permits shall  
24 be subject to impoundment or revocation under the terms of section  
25 60-496. Any person who violates the terms of a school permit shall be  
26 guilty of an infraction and shall not be eligible for another school,  
27 farm, LPD-learner's, or LPE-learner's permit until he or she has attained  
28 the age of sixteen years.

29 (7) Any person who holds a permit issued under this section and has  
30 violated subdivision (3)(b) or (c) of section 28-306, subdivision (3)(b)  
31 or (c) of section 28-394, or section 28-1254, 60-6,196, 60-6,197,

1 60-6,197.06, or 60-6,198 shall not be eligible for an ignition interlock  
2 permit.

3 Sec. 5. Section 60-682.01, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 60-682.01 (1) Except as otherwise provided in subdivision (f) of  
6 this subsection, any Any person who operates a vehicle in violation of  
7 any maximum speed limit established for any highway or freeway is guilty  
8 of a traffic infraction and upon conviction shall be fined:

9 (a) Fifty ~~Ten~~ dollars for traveling one to five miles per hour over  
10 the authorized speed limit;

11 (b) Seventy-five ~~Twenty-five~~ dollars for traveling over five miles  
12 per hour but not over ten miles per hour over the authorized speed limit;

13 (c) One hundred twenty-five ~~Seventy-five~~ dollars for traveling over  
14 ten miles per hour but not over fifteen miles per hour over the  
15 authorized speed limit;

16 (d) Two hundred ~~One hundred twenty-five~~ dollars for traveling over  
17 fifteen miles per hour but not over twenty miles per hour over the  
18 authorized speed limit;

19 (e) Three ~~Two~~ hundred dollars for traveling over twenty miles per  
20 hour but not over thirty-five miles per hour over the authorized speed  
21 limit; and

22 (f) Four ~~Three~~ hundred dollars for traveling over thirty-five miles  
23 per hour over the authorized speed limit, and such person is guilty of a  
24 Class I misdemeanor in lieu of a traffic infraction.

25 (2) The fines prescribed in subsection (1) of this section shall be  
26 doubled if the violation occurs within a maintenance, repair, or  
27 construction zone established pursuant to section 60-6,188. For purposes  
28 of this subsection, maintenance, repair, or construction zone means (a)  
29 (i) the portion of a highway identified by posted or moving signs as  
30 being under maintenance, repair, or construction or (ii) the portion of a  
31 highway identified by maintenance, repair, or construction zone speed

1 limit signs displayed pursuant to section 60-6,188 and (b) within such  
2 portion of a highway where road construction workers are present. The  
3 maintenance, repair, or construction zone starts at the location of the  
4 first sign identifying the maintenance, repair, or construction zone and  
5 continues until a posted or moving sign indicates that the maintenance,  
6 repair, or construction zone has ended.

7 (3) The fines prescribed in subsection (1) of this section shall be  
8 doubled if the violation occurs within a school crossing zone as defined  
9 in section 60-658.01.

10 Sec. 6. Section 60-6,165, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 60-6,165 (1) Whenever any peace officer, or any authorized employee  
13 of a law enforcement agency who is employed by a political subdivision of  
14 the state and specifically empowered by ordinance to act, finds a vehicle  
15 standing upon a highway in violation of any of the provisions of the  
16 Nebraska Rules of the Road or the Motor Vehicle Registration Act, such  
17 individual may remove the vehicle, have such vehicle removed, or require  
18 the driver or other person in charge of the vehicle to move such vehicle  
19 to a position off the roadway of such highway or from such highway.

20 (2) The owner or other person lawfully entitled to the possession of  
21 any vehicle towed or stored shall be charged with the reasonable cost of  
22 towing and storage fees. Any such towing or storage fee shall be a lien  
23 upon the vehicle prior to all other claims. Any person towing or storing  
24 a vehicle shall be entitled to retain possession of such vehicle until  
25 such charges are paid. The lien provided for in this section shall not  
26 apply to the contents of any vehicle.

27 Sec. 7. Section 60-6,179.01, Reissue Revised Statutes of Nebraska,  
28 is amended to read:

29 60-6,179.01 (1) This section does not apply to an operator of a  
30 commercial motor vehicle if section 60-6,179.02 applies.

31 (2) Except as otherwise provided in subsection (3) of this section,

1 no person shall use a handheld wireless communication device to read a  
2 written communication, manually type a written communication, or send a  
3 written communication while operating a motor vehicle which is in motion.

4 (3) The prohibition in subsection (2) of this section does not apply  
5 to:

6 (a) A person performing his or her official duties as a law  
7 enforcement officer, a firefighter, an ambulance driver, or an emergency  
8 medical technician; or

9 (b) A person operating a motor vehicle in an emergency situation.

10 ~~(4) Enforcement of this section by state or local law enforcement~~  
11 ~~agencies shall be accomplished only as a secondary action when a driver~~  
12 ~~of a motor vehicle has been cited or charged with a traffic violation or~~  
13 ~~some other offense.~~

14 ~~(4)~~ (5) Any person who violates this section shall be guilty of a  
15 traffic infraction. Any person who is found guilty of a traffic  
16 infraction under this section shall be assessed points on his or her  
17 motor vehicle operator's license pursuant to section 60-4,182 and shall  
18 be fined:

19 (a) Two hundred dollars for the first offense;

20 (b) Three hundred dollars for a second offense; and

21 (c) Five hundred dollars for a third and subsequent offense.

22 (6) For purposes of this section:

23 (a) Commercial motor vehicle has the same meaning as in section  
24 75-362;

25 (b)(i) Handheld wireless communication device means any device that  
26 provides for written communication between two or more parties and is  
27 capable of receiving, displaying, or transmitting written communication.

28 (ii) Handheld wireless communication device includes, but is not  
29 limited to, a mobile or cellular telephone, a text messaging device, a  
30 personal digital assistant, a pager, or a laptop computer.

31 (iii) Handheld wireless communication device does not include an

1 electronic device that is part of the motor vehicle or permanently  
2 attached to the motor vehicle or a handsfree wireless communication  
3 device; and

4 (c) Written communication includes, but is not limited to, a text  
5 message, an instant message, electronic mail, and Internet websites.

6 Sec. 8. Original sections 28-306, 60-4,120.01, 60-4,123, 60-682.01,  
7 60-6,165, and 60-6,179.01, Reissue Revised Statutes of Nebraska, and  
8 section 60-4,124, Revised Statutes Cumulative Supplement, 2022, are  
9 repealed.