

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1155

Introduced by Lathrop, 12.

Read first time January 19, 2012

Committee:

A BILL

1 FOR AN ACT relating to the Motor Vehicle Operator's License Act; to
2 amend sections 60-4,108 and 60-4,110, Reissue Revised
3 Statutes of Nebraska; to change penalties relating to
4 operating a motor vehicle while under orders not to
5 operate a motor vehicle; and to repeal the original
6 sections.

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

1 Section 1. Section 60-4,108, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 60-4,108 (1) It shall be unlawful for any person to
4 operate a motor vehicle during any period that he or she is subject
5 to a court order not to operate any motor vehicle for any purpose or
6 during any period that his or her operator's license has been revoked
7 or impounded pursuant to conviction or convictions for violation of
8 any law or laws of this state, by an order of any court, or by an
9 administrative order of the director. Except as otherwise provided by
10 subsection (3) of this section or by other law, any person so
11 offending shall (a) for a first such offense, be guilty of a Class II
12 misdemeanor, and the court shall, as a part of the judgment of
13 conviction, order such person not to operate any motor vehicle for
14 any purpose for a period of one year from the date ordered by the
15 court and also order the operator's license of such person to be
16 revoked for a like period, ~~and~~ (b) for ~~each subsequent~~ a second or
17 third such offense, be guilty of a Class II misdemeanor, and the
18 court shall, as a part of the judgment of conviction, order such
19 person not to operate any motor vehicle for any purpose for a period
20 of two years from the date ordered by the court and also order the
21 operator's license of such person to be revoked for a like period,
22 and (c) for a fourth or subsequent such offense, be guilty of a Class
23 I misdemeanor, and the court shall, as a part of the judgment of
24 conviction, order such person not to operate any motor vehicle for
25 any purpose for a period of two years from the date ordered by the

1 court and also order the operator's license of such person to be
2 revoked for a like period. Such orders of the court shall be
3 administered upon sentencing, upon final judgment of any appeal or
4 review, or upon the date that any probation is revoked, whichever is
5 later.

6 (2) It shall be unlawful for any person to operate a
7 motor vehicle (a) during any period that his or her operator's
8 license has been suspended, (b) after a period of revocation but
9 before issuance of a new license, or (c) after a period of
10 impoundment but before the return of the license. Except as provided
11 in subsection (3) of this section, any person so offending shall be
12 guilty of a Class III misdemeanor, and the court may, as a part of
13 the judgment of conviction, order such person not to operate any
14 motor vehicle for any purpose for a period of one year from the date
15 ordered by the court, except that if the person at the time of
16 sentencing shows proof of reinstatement of his or her suspended
17 operator's license, proof of issuance of a new license, or proof of
18 return of the impounded license, the person shall only be fined in an
19 amount not to exceed one hundred dollars. If the court orders the
20 person not to operate a motor vehicle for a period of one year from
21 the date ordered by the court, the court shall also order the
22 operator's license of such person to be revoked for a like period.
23 Such orders of the court shall be administered upon sentencing, upon
24 final judgment of any appeal or review, or upon the date that any
25 probation is revoked, whichever is later.

1 (3) If a juvenile whose operator's license or permit has
2 been impounded by a juvenile court operates a motor vehicle during
3 any period that he or she is subject to the court order not to
4 operate any motor vehicle or after a period of impoundment but before
5 return of the license or permit, such violation shall be handled in
6 the juvenile court and not as a violation of this section.

7 Sec. 2. Section 60-4,110, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 60-4,110 (1) Every motor vehicle, regardless of the
10 registered owner of the motor vehicle, being operated by a person
11 whose operator's license has been suspended, revoked, or impounded
12 pursuant to a conviction or convictions for violation of section
13 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02 or by an order of any
14 court or an administrative order of the director is hereby declared a
15 public nuisance. The motor vehicle may be seized upon the arrest of
16 the operator of the motor vehicle and impounded at the expense of the
17 owner of the motor vehicle. If such operator's license is suspended,
18 revoked, or impounded pursuant to subdivision (1)(c) of section
19 60-4,108 or section 60-498.01, 60-498.02, 60-6,196, 60-6,197,
20 60-6,211.01, or 60-6,211.02, the motor vehicle shall be impounded for
21 not less than ten days nor more than thirty days. No motor vehicle
22 impounded under this section shall be impounded for a period of time
23 exceeding thirty days except as provided in subsection (3) of this
24 section.

25 (2) Any motor vehicle impounded shall be released:

1 (a) To the holder of a bona fide lien on the motor
2 vehicle executed prior to such impoundment when possession of the
3 motor vehicle is requested as provided by law by such lienholder for
4 purposes of foreclosing and satisfying his or her lien on the motor
5 vehicle;

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

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

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

23 (4) If the registered owner of a motor vehicle was not
24 the operator of the motor vehicle whose actions caused the motor
25 vehicle to be impounded, the registered owner of the motor vehicle

1 may recover civilly from the operator of the motor vehicle all
2 expenses incurred by reason of the impoundment. In the case of a
3 criminal action, the court may order such operator of the motor
4 vehicle to pay restitution to the registered owner in an amount equal
5 to any expenses incurred with respect to impoundment.

6 Sec. 3. Original sections 60-4,108 and 60-4,110, Reissue
7 Revised Statutes of Nebraska, are repealed.