

STATE:

NEBRASKA

General References:

Revised Statutes of Nebraska and
Nebraska Administrative Code (NAC)

Basis for a DWI Charge:

Standard DWI Offense:

Under the influence of alcoholic liquor*
§60-6,196(1)(a)

Illegal Per Se Law (BAC/BrAC):

≥.08^{729and730} §60-6,196(1)(b) and (c)
Persons Under 21 Years Old-BAC/BrAC ≥.02 but
<.08 Traffic Infraction (Civil Offense) §§60-6,
211.01, 60-6, 211.02(3) and 60-672

Presumption (BAC):

None

Types of Drugs/Drugs and Alcohol:

Under the influence of **Any Drug** §60-6,196(1)(a)

Other:

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:

Yes §§60-6,197(3) and 60-6,211.02(2) Any driver
must submit to a preliminary test if the officer has
reasonable grounds to believe that such person
has alcohol in his or her body, has committed a
moving traffic violation, or has been involved in a
traffic accident.

Implied Consent Law:

Arrest Required (Yes/No):

Yes⁷³¹ §60-6,197(2)

Implied Consent Law Applies to

Drugs (Yes/No):

Yes §60-6,197(1)

Refusal to Submit to Chemical Test

Admitted into Evidence:

Yes §60-6,197(11) (Criminal Cases) and *State v.*
Romell, 204 N.W.2d 573 (1973)

Refusal to Submit to Chemical Test

After valid arrest is separate crime:

Yes A driver involved in a motor vehicle crash where
there are reasonable grounds that the driver is DWI
may be required to submit to a chemical test to
determine if he/she has either alcohol or drugs in
his/her system. Injury or death is not a prerequisite
for this requirement. §60-6,197⁷³²

* In cases involving “driving while under the influence” where both alcohol and drugs are involved, it is not necessary for the State to prove which substance, alcohol or drugs, caused the impairment. *State v. Falcon*, 615 N.W. 2d 436 (Neb. 2000).

⁷²⁹ This State's illegal per se law also makes it an offense to operate a motor vehicle with a breath alcohol concentration of .08 or more.

⁷³⁰ Standards: Grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. §60-6,196(1) and 60-6,211.01

⁷³¹ Probable cause (not an arrest) is needed prior to requesting a person under 21 years old to submit to a test for evidence related to a violation of §60-6, 211.01 (driving with a BAC/BrAC ≥.02). §60-6, 211.02(2)

⁷³² A surviving driver (or pedestrian) 16 years old or older who is involved in an accident where there has been a fatality shall be required to submit to a chemical test of the blood, breath or urine in order to determine the amount of alcohol or drugs in the body. The tests' results and the identity of the persons tested are considered public records and are subject to being disclosed. §§60-6,103 and 60-6,104.

Chemical Tests of Other Substances for Alcohol Concentration Which Are Authorized Under the Implied Consent Law:

Blood: **Yes** §60-6,197(1)
 Urine: **Yes** §60-6,197(1)
 Other: **None**

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No): **No.** Pretrial diversion of DWI cases is prohibited. §29-3604
 Anti-Plea-Bargaining Statute (Yes/No): **No**
 Pre-Sentencing Investigation Law (PSI) (Yes/No): **Yes.**⁷³³ Alcohol screening is required for either a first or subsequent offender. §60-6,196(8)

Sanctions for Refusal to Submit to a Chemical Test:

Refusal to Take a Preliminary Breath Test:
 Criminal Sanctions (Fine/Jail): Class V Misdemeanor: **\$100 fine**, no imprisonment §§28-106 and 60-6,197(3)
 Administrative Licensing Action (Susp/Rev): **Yes:** immediate confiscation of license, **one-year revocation** for refusal to take test; **90-day** revocation if test failed. Revocation limited to **30 days** with installation of ignition interlock §§60-498.01 and 60-498.02

Other: Persons Under 21 Years Old: A person under 21 years old who refuses to submit to a preliminary breath test to determine if he/she was driving with a BAC/BrAC ≥.02 may be arrested for a violation of §60-6, 211.01. §60-6, 211.02(2)

Refusal to Take Implied Consent Chemical Test:
 Criminal Sanction (Fine/Jail):

First offense (Class W misdemeanor) – Not more than **\$500/60 days**; second offense within 12 years – (Class W misdemeanor) – Not more than **\$500/90 days**; third offense within 12 years – (Class W misdemeanor) – Not more than **\$600/1 year**; fourth or subsequent offense within 12 years – (Class IV felony) – Not more than **\$10,000/5 years**. §§28-105, 28-106 and 60-6,197
Mandatory Sanctions:
 I. If probation is not granted: first offense – **\$400/7 days**; second offense (within 12 years) – **\$500/30 days**; third offense (within 12 years) – **\$600/90 days**; fourth or subsequent offense (within 12 years) – **10 days** §§28-106 and 60-6,197(4)
 II. If probation is granted: first offense – **\$400**; second offense (within 12 years) – **\$500/5 days or 240 hours of community service**; third offense (within 12 years)

⁷³³ "A court may order a pre-sentence investigation in any case." §29-2261 (2) and (3)

– **\$600/10 days or 480 hours community service;**
fourth or subsequent offense (within 12 years) –
\$1,000/10 days or 480 hours community service
 §§28-106 and 60-6,197(4).

Administrative Licensing Action
 (Susp/Rev):

I. The following revocations are mandatory if probation is not granted:⁷³⁴ first offense – **Revocation 90 days (limited license available after 30 days);** second offense – **Revocation 1 year;** third and subsequent offense – **Revocation 15 years**⁷³⁵
 §§28-106 and 60-6,197

II. If probation is granted, the following revocations must be imposed: first offense – **Revocation 90 days,** with ignition interlock license possible after 30 days; second offense – **Revocation 1 year;** third and subsequent offense – **Revocation 1 year**⁷³⁶:
 §§28-106 and 60-6,197 and 60-498.02

III. Administrative action⁷³⁷: first and subsequent refusals- **Revocation 1 year** (mand). A person is not eligible to operate a motor vehicle equipped with an **ignition interlock** device until this revocation period is completed. §60-6,206

Other:

Persons Under 21 Years Old: A person under 21 years old who refuses to submit to a chemical test to determine if he/she has BAC/BrAC $\geq .02$ but $< .08$ commits a Traffic Infraction. Sanctions: Jail – **None**; fine – first offense – Not more than **\$100**, second offense (within 1 year) – not more than **\$200**, third and subsequent offense (within 1 year) – not more than **\$300**. Admin. Action. For either a first or subsequent offense – **90 days** license "impoundment". Restricted driving privileges for employment are available. §§60-672, 60-689, 60-6,211.02 and 60-6,211.03. The driver licensing record for this administrative action must be expunged after 120 days. §60-6,211.06(2)

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years):

First offense (Class W misdemeanor) - **None**, but with BAC 0.15 or above, mandatory 120 hours of

⁷³⁴ These revocations are based upon a conviction under §60-6, 197.

⁷³⁵ Reduced to 7 years provided the person (1) has completed a chemical dependency program, (2) has not been convicted of either a DWI or implied consent offense, (3) has abstained from the excessive consumption of alcoholic beverages and (4) is not under suspension or revocation for any other reason. §60-6,209

⁷³⁶ The license is suspended for this period of time. §60-6,197(2) (c) and (d)

⁷³⁷ This action by the licensing agency is independent of any licensing action that may be taken by the courts. A person who is subject to this administrative action is not eligible for employment (hardship) driving privileges under §60-4, 130.

Mandatory Minimum Term:	community service; (minimum- 7 days) ; <u>second offense within 12 years</u> – (Class W misdemeanor) – Not more than 6 months (mandatory 240 hours of community service;) if BAC is 0.15 or above, jail for 10 days or 240 hours of community service; <u>third offense within 12 years</u> – (Class W misdemeanor) – Not more than 15 years (30-day minimum) ; if BAC is 0.15 or above, 60-day minimum); <u>fourth and subsequent offenses within 12 years</u> – (Class IV felony; if 0.15 BAC or above, Class III felony) – Not more than 15 years (90-day minimum) ; if BAC is 0.15 or more 120-day minimum) §§28-105, 28-106 and 60-6,196 DWI with serious bodily injury – {which may include an unborn child} - Class IIIA felony – Not more than 15 years §§28-105 and 60-6,198 Persons <21 Years Old (≥.02 but <.08) – None I. If probation is <u>not</u> granted: <u>first offense</u> – 7 days ⁷³⁸ ; <u>second offense</u> (within 12 years) – 30 days ; <u>third offense</u> (within 12 years) – 90 days ; <u>fourth or subsequent offense</u> (within 12 years) – 10 days §§28-106 and 60-6,196(2) II. If probation is granted: <u>first offense</u> – None ; <u>second offense</u> (within 12 years) – 5 days ; <u>third or subsequent offense</u> (within 12 years) – 10 days §§28-106 and 60-6,196(2) DWI with serious bodily injury – None
Fine: Amount (\$ Range):	<u>First offense</u> – \$400- 500 ; <u>second offense</u> (within 12 years) – \$500 ; <u>third offense</u> (within 12 years) – \$600- 1,000 ; <u>fourth and subsequent offenses</u> (within 12 years) – \$1,000 ; DWI with serious bodily injury-(Class IIIA felony) – Not more than \$10,000 §§28-105 and 60-6,198 Persons Under 21 Years Old (≥.02 but <.08) – <u>first offense</u> – Not more than \$100 ; <u>second offense</u> (within 1 year) – Not more than \$200 ; <u>third and subsequent offense</u> (within 1 year) – Not more than \$300 . §60-689 I. If probation is <u>not</u> granted: <u>first offense</u> – \$400 ; <u>second offense</u> (within 12 years) – \$500 ; <u>third offense</u>
Mandatory Min. Fine (\$):	

⁷³⁸ If an offender is not placed on probation, the mandatory minimum period of incarceration would be "straight" or consecutive jail time. There is no statutory authority for the court to order "intermittent incarceration." However, if the offender is placed on probation, the court does have the statutory authority to grant intermittent sentences. Thus, the minimum mandatory sentence under probation may not have to be served consecutively. *State v. Salyers*, 480 N.W.2d 173 (Neb. 1992), *State v. Peters*, 435 N.W.2d 675 (Neb. 1989), and *State v. Texel*, 433 N.W.2d 541 (Neb. 1989)

Comment: The court does not have to exercise its discretion to suspend a sentence and grant probation in either DWI or implied consent refusal criminal cases. If the court does not exercise this discretion, it must impose the minimum mandatory sanctions in §28-106. Of course, if this discretion is exercised, §28-106 mandatory sanctions do not have to be imposed. However, the court is required to impose the minimum mandatory sanctions associated with the granting of probation in §§60-6,196 and 60-6,197. *State v. Soe*, 366 N.W.2d 439 (Neb. 1985), *State v. Schulz*, 378 N.W. 165 (Neb. 1985), and *State v. Stastny*, 395 N.W.2d 492 (Neb. 1986)

(within 12 years) – **\$600**; fourth or subsequent offense (within 12 years) – **\$1,000**. §§28-106 and 60-6,196
 II. If probation is granted: first offense – **\$400**; second offense – **\$500**; third offense – **\$600**; fourth or subsequent offense – **\$1,000**. §§28-106 and 60-6,196(2)

Other Penalties:
 Community Service:

Yes. I. As an alternative to incarceration if probation is granted, an offender is required to perform the following periods of community service: First offense – BAC 0.15 and above – 120 hours; second offense (within 12 years) – Not less than **240 hours** (mand); third or subsequent offense(within 12 years) – Not less than **480 hours** (mand) §60-196(2); DWI with serious bodily injury – not less than **400** nor more than **6000** hours. §29-2279(4).

II. A criminal law violator may be sentenced to perform community service. However, community service cannot be used either as a substitute for mandatory jail or fine or in cases where there is serious bodily injury. §29-2278. See §29-2279 for the length of community service.

Restitution
 (e.g., Victim's Fund)

I. A defendant may be ordered to pay restitution to a victim. §29-2280.

II. Victims' Compensation Fund. §81-1801 et seq.
Driver Education Program: Offenders who have accumulated 12 or more points within 2 years must attend and successfully complete a driver's education program of at least 8 hours duration before any license may be reinstated. §60-4,183

Other:

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
 Administrative Per Se Law:

Yes ≥.08 (BAC/BrAC §§60-6,197(4), 60-6,205 and 60-6,206 first violation – **Revocation 90 days** (30 days mand) A person is eligible for employment (hardship) driving privileges after the 30-day mandatory period (but not for the operation of a CMV). Subsequent violation (within 12 years) – **Revocation for 1 year**⁷³⁹ (mand) 247 NAC §026⁷⁴⁰

⁷³⁹ Following the 30-day mandatory revocation period, either employment driving privileges may be granted or driving privileges may be granted with the condition that the offender only operate motor vehicles that are equipped with an "ignition interlock" device. For subsequent violators, the entire 1-year revocation period is mandatory. §§60-4,118.06 and 60-6,206(2)

⁷⁴⁰ Regulation 247 NAC §026 provides that subsequent violators are ineligible for a restricted (hardship) license.
Double Jeopardy: Based upon the same factual situation, a person who has been subjected to licensing action under the administrative per se law may also be subsequently prosecuted for a drunk-driving offense. Such subsequent criminal trial does not violate the constitutional prohibition against double jeopardy. *State v. Hansen*, 542 N.W.2d 424 (Neb. 1996) cert denied 527 U.S. 1249, 135 L.Ed. 2d 198, 116 S.Ct. 2509 (1996) and *State v. Young*, 530 N.W.2d 269 (Neb.App. 1995)

Constitutionality: I. The administrative license revocation (ALR) law “does not create an unconstitutional classification between those who submit to urine tests and those who submit to blood and breath tests.... Therefore, [the ALR law] does not violate the prohibition on special legislation found in Neb. Const. art. III, §18.” *Kalisek v.*

<p>Post DWI Conviction Licensing Action: Type of Licensing Action (Susp/Rev):</p>	<p>If DWI charges are <u>not filed</u> or if the driver is found <u>not guilty</u> of such charges, the administrative per se proceeding is either dismissed or if the proceeding has resulted in revocation, the revocation is canceled and the license is reinstated. §60-6,206(4)</p> <p>Revocation §§60-498 and 60-6,196 Persons Under 21 Years Old ≥.02 but <.08-Impoundment §60-6,211.02(3)</p>
<p>Term of License Withdrawal (Days, Months, Years, etc.):</p>	<p><u>First offense</u> – 6 months (60 days with probation); <u>second offense</u> (within 12 years) – 1 year; <u>third and subsequent offense</u> (within 12 years) – 15 years (with probation – 1 year) §60-6,196 DWI with serious bodily injury– Class. IIIA felony-15 years §60-6,198(1) <u>Persons Under 21 Years Old ≥.02 but <.08-30 days</u> (Driving privileges are available for employment.) §§60-6,211.02(3) and 60-6,211.03(2)</p>
<p>Mandatory Minimum Term of Withdrawal:</p>	<p>If probation is <u>not</u> granted: <u>first offense</u> – 6 months (1 year with BAC 0.15 or above); <u>second offense</u> (within 12 years) – 1 year; <u>third offense</u>(within 12 years) – 5 years; <u>fourth and subsequent offense</u>; 15 years. §60-6,196</p> <p>If probation is granted: <u>first offense</u> – 60 days; <u>second offense</u> (within 12 years) – 1 year; <u>third and subsequent offense</u> (within 12 years) – 1 year §60-6,196 and <i>State v. Matthews</i>, 465 N.W.2d 763 (Neb. 1991). <u>DWI with serious bodily injury</u>– Class IIIA felony – 60 days §60-6,198(1)</p> <p>Any period of revocation imposed for DWI conviction shall be reduced by any revocation period imposed for an administrative per se action. §60-6,196(5)</p>
<p>Other: Rehabilitation: Alcohol Education:</p>	<p>Yes. In addition to any other sanction, a DWI offender may be required to attend an alcoholism or drug treatment program as a condition of probation, §60-6,196(8), and pay for it. <i>State v. Hynek</i>, 640 N.W. 2d 1 (Neb. 2002).</p>
<p>Alcohol Treatment:</p>	<p>Yes.</p>

Abramson, 599 N.W.2d 834 (Neb. 1999). II. The administrative per se law does not violate the constitutional principles of equal protection of the laws and cruel and unusual punishment. *Schindler v. Department of Motor Vehicles*, 593 N.W.2d 295 (Neb. 1999)

Vehicle Impoundment/Confiscation:
 Authorized by Specific
 Statutory Authority:

No.

Terms Upon Which Vehicle
 Will Be Released:

N/A

Other:

Immobilization: A person who has been convicted of either a second or subsequent drunk-driving/implied consent refusal offense (within 12 years) must have **all** of the motor vehicles that person owns “immobilized” for not less than **5 days nor more than 8 months**.

However, a co-owner of the vehicle may have the vehicle released to him or her if there is either a need to use such vehicle to continue employment or for the well-being of the co-owner’s children or parents. §60-6,197.01(1)(a) and (1)(b)(i) OR

Ignition Interlock:⁷⁴¹ The court may order a person who has been convicted of either a second or subsequent drunk-driving/implied consent refusal offense (within 12 years), as an alternative to vehicle immobilization, to have **all** of the vehicles owned equipped with ignition interlock devices. This requirement must last for not less than **6 months** starting at the end of any license revocation period. One year of the license revocation period must be completed before any ignition interlock devices can be installed. When the installation of an ignition interlock device is ordered for a second or subsequent DUI violator, the Court also has the option of ordering the person to use a “continuous alcohol monitoring device”⁷⁴² and to abstain from alcohol use for the period of time not to exceed the maximum license revocation ordered by the Court. §60-6,197.01(2)

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL): A person is "disqualified" from operating a CMV for 1 mandatory year (3 years if transporting hazardous materials) if, while driving a CMV, (1) has a BAC/BrAC/UrAC $\geq .04$, (2) is under the influence of alcohol or a controlled

⁷⁴¹ (1) A person who unintentionally causes the death of an unborn child while engaged in the operation of a motor vehicle in violation of the law commits “motor vehicle homicide of an unborn child.”

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

(3) (a) If the proximate cause of the death of an unborn child is DUI {the operation of a motor vehicle in violation of Section 60-6,213 or 60-6,214}, motor vehicle homicide of an unborn child is a Class IV felony.

(b) Revocation for at least sixty days and not more than fifteen years that shall not run concurrently with any jail term imposed.

(c) If the proximate cause of the death of an unborn child is a DUI and the defendant has a prior DUI conviction, it is a Class III felony. §28-394

⁷⁴² “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 tampering attempts regarding such a device, regardless of the location of the person being monitored.

substance or (3) refuses to submit to a chemical test for alcohol concentration. For either (1) a subsequent violation or (2) a combination of two or more violations of any of the above-listed items, the "disqualification" is for life (mand). In addition, CMV operators who have any "detectable" amount of alcohol in their system must be placed "out-of-service" for 24 hours. §§60-4,138, 60-4,163, 60-4,164 and 60-4,168.

Other Criminal Actions Related to DWI: (continued)

Homicide by Vehicle⁷⁴³:

State Has Such a Law:

Yes. (1) Class I Misdemeanor (unintentional death caused while operating a motor vehicle in violation of law) (2) Class IIIA felony (if homicide was the result of DWI, reckless driving or willful reckless driving); (3) Class III felony (death as a result of DWI where the defendant has had a prior DWI offense conviction) §§28-105, 28-106, and 28-306

Sanctions:

Criminal Sanction:

Imprisonment (Term):

Class I Misdemeanor – not more than **1 year**; Class IIIA felony – not more than **5 years**; Class III felony – not more than **20 years**

Mandatory Minimum Term:

Class III felony – **1 year**

Fine (\$ Range):

Class I Misdemeanor – not more than **\$1,000**; Class IIIA felony – not more than **\$10,000**; Class III felony – not more than **\$25,000**

Mandatory Minimum Fine:

None

Administrative Licensing Action:

Licensing Authorized and Type of Action:

Class I Misdemeanor – **Revocation**⁷⁴⁴; Class IIIA Felony – **Revocation**; Class III felony – **Revocation** (A person must also attend and successfully complete a driver's education course of at least 8 hours duration. §60-4,183). §§28-306(3)(b) and (c), 60-424, 60-4,182 and 60-4,183

Length of Term of

Licensing Withdrawal:

(1) Class I Misdemeanor Offense – **6 months** from the date of revocation or after the date of release from confinement whichever is later. (2) Class IIIA felony offense – **60 days -15 years** The revocation shall not run concurrently with any jail term. (3) Class III felony Offense – **60 days to 15 years**. The revocation shall not run concurrently with any jail term.

⁷⁴³ A DWI or implied consent law offender placed on probation may be ordered to only operate motor vehicles that are equipped with "ignition interlock" devices. If such an order is issued, the offender is eligible for a special license that restricts driving motor vehicles equipped with these devices. A first offender is eligible for such a license after 30 days of revocation have been completed. A second or subsequent offender is not eligible for such a license until at least 1 year of revocation has been completed. §§60-6,211.05.

⁷⁴⁴ This revocation period is via the point system. A vehicle homicide offense results in an assessment of 12 points. An accumulation of 12 or more points within a 2-year period results in a 6-month revocation. §§60-4,182 and 60-4,183

Mandatory Action--Minimum
Length of License
Withdrawal:

(1) Class I Misdemeanor Offense – **None**. An employment driving permit may be issued. §§60-4,129 and 60-4,183 (2). Class IIIA felony offense – **60 days**. §28-306(3)(b) (3) Class III felony offense – **60 days**. §28-306(3)(c)

Driving While License Suspended or Revoked
Where the Basis Was a DWI Offense*:

See Footnotes ⁷⁴⁵ and ⁷⁴⁶ and the Comment below.

Sanction:
Criminal:
Imprisonment (Term):

Driving While Suspended: first and subsequent offenses – Class III Misdemeanor – Not more than **3 months**

Driving While Revoked: first and subsequent offenses – Class II Misdemeanor- Not more than **6 months**. §§28-106, 60-557, 60-4,108 and 60-4,109

Mandatory Minimum Term
of Imprisonment:
Fine (\$ Range):

None

Driving While Suspended: first and subsequent offenses – Class III Misdemeanor – Not more than **\$500**

Driving While Revoked: first and subsequent offenses – Class II Misdemeanor- Not more than **\$1,000**. §28-106

Mandatory Minimum Fine:
Administrative Licensing Actions:

None

⁷⁴⁵ A person commits a felony by operating a motor vehicle while the license is revoked if the basis for the revocation was three or more DWI or implied consent offense convictions. First offense (Class IIIA felony) – Imprisonment for not more than 5 years and/or a fine of not more than \$10,000. Subsequent offense (Class III felony) – Imprisonment for not more than 20 years (1 year minimum) and/or a fine of not more than \$25,000. §§28-105, 60-6,196(6) and 60-197(7)

⁷⁴⁶ Sanctions for driving while revoked under the point system: Criminal sanctions– Class III Misdemeanor: Jail – not more than 3 months; fine of not more than \$500. Admin Actions: (1) The license revocation as given under the point system must remain in effect for 1 year. (2) However, if the license revocation as given under the point system was a person's second revocation under such system within a 5-year period, such revocation must remain in effect for 3 years. But these revocation periods are not mandatory. A person is eligible for employment driving privileges. §§28-106, 60-4,129 and 60-4,186

*There is no specific statutory provision on this subject. The sanctions given are for the general offense of operating a motor vehicle while driving privileges are either suspended or revoked.

Comment: These sanctions also apply to the operation of a CMV during either a CDL disqualification or a CDL out-of-service order. The sanctions for this offense are an imprisonment term of not more than 3 months and/or a fine of not more than \$500. §§28-106 and 60-4,141.01 A person convicted of violating an out-of-service order is subject to the following disqualification periods: first offense – 90 days (mand); second offense (within 10 years) – 1 year (mand); and, third or subsequent offense (within 10 years) – 3 years (mand). If the CMV operator was driving a CDL either containing hazardous materials or designed to carry 15 or more persons, the CDL disqualification periods are as follows: first offense – 180 days (mand); and, subsequent offense (within 10 years) – 3 years (mand). §60-4,168.01.

Type of Licensing Action (Susp/Rev): First and subsequent offenses – Driver ordered not to operate a vehicle. §60-4,108

Vehicle Confiscation/Impoundment: Under §60-4,110, a motor vehicle operated by any person whose license has either been revoked or suspended for any drunk-driving or any implied consent conviction must be impounded for not less than 10 or more than 30 days.

Length of Term of License Withdrawal Action: Driving While Suspended: first and subsequent offenses – 1 year
Driving While Revoked: first offense – 1 year; subsequent offense – 2 years §60-4,108

Mandatory Term of License Withdrawal Action: Driving While Suspended: first offense – 1 year
Driving While Revoked: first offense – 1 year;⁷⁴⁷
subsequent offense – 2 years §60-4,108

Habitual Traffic Offender Law:
State Has Such a Law (Yes/No): **No**

Grounds for Being Declared an Habitual Offender:
Term of License Rev While Under Habitual Offender Status:
Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status
Sanctions Following a Conviction of Driving While on Habitual Offender Status:
Imprisonment (Term):

Mandatory Minimum Term of Imprisonment:
Fine (\$ Range):
Mandatory Minimum Fine (\$):
Licensing Actions (Specify):

Other State Laws Related To Alcohol Use:

Laws Requiring BAC Chemical Tests on Persons Killed in Traffic Accidents:

State Has Such a Law (Yes/No): **Yes** §60-6,102
BAC Chemical Test Is Given to the the Following Persons:
Driver: **Yes** If dead within 4 hours of the accident.
Vehicle Passenger: **No**

⁷⁴⁷ The court also orders revocation for the same period of time. §§60-4,108 and 60-4,109
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Pedestrian:	Yes If at least 16 years old and dead within 4 hours of the accident.
<u>Laws Establishing the Minimum Ages Concerning Alcoholic Beverages:</u>	
Minimum Age (Years) Sale/Purchase:	21. §§53-103(23), 53-180 and 53-18.01
Minimum Age (Years) Possession:	21. There are exemptions for possession in a "permanent place of residence", for religious purposes and for certain employment purposes by those ≥19 years old. §§53-103(23), 53-168.06 and 53-18.02
Minimum Age (Years) Consumption:	21. There are exemptions for consumption in a "permanent place of residence" or for religious purposes. §53-18.02
<u>Dram Shop Laws and Related Legal Actions:</u>	
State Has a Dram Shop Law (Yes/No):	No
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No. Note: For cases denying liability, see <i>Holmes v. Circo</i> , 244 N.W.2d 65 (1976), <i>Arant v. G.H., Inc.</i> , 428 N.W.2d 631 (Neb. 1988), and <i>Schroer v. Synowiecke</i> , 435 N.W.2d. 875 (Neb. 1989).
Dram Shop Actions-Social Hosts:	No. (No Cases)
Other:	A licensee cannot be held liable for injuries sustained by an intoxicated minor patron. <i>Pelzek v. American Legion</i> , 463 N.W.2d 321 (Neb. 1990)
<u>Criminal Action Against Owner or Employees of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:</u>	
Type of Criminal Action:	Class I Misdemeanor §§53-180, 53-18.05 and 28-106
Term of Imprisonment:	Not more than 1 year
Fine (\$ Range):	Not more than \$1,000
<u>Administrative Actions Against Owners of Establishments that Serve Alcoholic Beverages to Intoxicated Patrons:</u>	
License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes. Suspension/Revocation ⁷⁴⁸ §§53-116.02 and 53-1,104
Length of Term of License Withdrawal:	Not specified in the statute.
<u>Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons</u>	

⁷⁴⁸ In lieu of a suspension, the licensee may pay a "cash penalty" for each day of the suspension. For a first offense, the "cash penalty" is \$50 per day; for second or subsequent offense (within 4 years), the "cash penalty" is \$100 per day. §53-1, 104(2)

Under the Minimum Legal Drinking Age:

Type of Criminal Action:

Class I Misdemeanor §§53-180, 53-18.05
and 28-106

Term of Imprisonment:

Not more than **1 year**

Fine (\$ Range):

Not more than **\$1,000**

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:

License to Serve Alcoholic Beverages

Withdrawn (Yes/No):

Yes Suspension/Revocation⁷⁴⁹ §§53-116.02
and 53-1,104

Length of Term License Withdrawal:

Not specified in the statute.

Anti-Happy Hour Laws/Regulations:

Yes Regulation 237-6.019.01U

This regulation does not regulate the price of "single" drinks. It does, however, prohibit the selling of an unlimited quantity of drinks at one price.

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:

Open Container Law (Yes/No):

Yes Driver and passengers §60-6,211.08

Anti-Consumption Law (Yes/No):

Yes Driver and passengers §60-6,211.08 {See §53-186 where the State or a local government may provide for certain exceptions on public property.}

⁷⁴⁹ In lieu of a suspension, the licensee may pay a "cash penalty" for each day of the suspension. For a first offense, the "cash penalty" is \$50 per day and for a second or subsequent offense (within 4 years), the "cash penalty" is \$100 per day. §53-14.01