

NOTICE OF PUBLIC HEARING and COMMENT PERIOD for TITLE 247 NAC 12

NOTICE is hereby given that the Department of Motor Vehicles will hold a rulemaking amendment hearing on September 21, 2022, beginning at 8:30 a.m. in the Morrill Conference Room, Lower Level, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

THE PURPOSE of the hearing is to take testimony and evidence concerning the amendment of: **TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 12 ENTITLED RULES AND REGULATIONS GOVERNING THE DEPARTMENT OF MOTOR VEHICLES RECOMMENDATIONS TO THE BOARD OF PARDONS FOR REPRIEVE OF OPERATOR'S LICENSE REVOCATIONS.**

These regulations were last amended in 1998 and need to be updated to reflect the current practice and procedures of the Board of Pardons when considering whether to grant a reprieve of a fifteen-year license revocation and be in compliance with the statutes as amended.

THIS RULE MAKING HEARING is being conducted under the Nebraska Administrative Procedures Act, Neb. Rev. Stat. § 84-907, et seq. Draft copies of the proposed regulations are available for public examination at the Department of Motor Vehicles, Legal Division, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509-4699 and at the office of the Secretary of State, Room 1305, State Capitol, Lincoln, Nebraska 68509-4608. A copy of the proposed rule will also be available at www.sos.nebraska.gov.

There is no new **FISCAL IMPACT** upon the state or political subdivisions from these rules and regulations. A copy of the fiscal impact statement is available at the above addresses.

ALL INTERESTED PERSONS are invited to attend and testify at the hearing. Interested persons may prefer to submit written comments during the **PUBLIC COMMENT PERIOD**. The public comment period begins with the publication of this notice and will close at the time of the public hearing. Any written comment received prior to or at the public hearing shall be made part of the hearing record at the time of the hearing. Written comments should be addressed to Sharon Joseph, Department of Motor Vehicles, State Office Building, 301 Centennial Mall South, Lincoln, NE 68509-4699 (fax 402-471-4828). Written comments may also be submitted on-line at www.sos.nebraska.gov. If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above at (402) 471-0990.

Dated: July 21, 2022

Rhonda K. Lahm, Director
Department of Motor Vehicles
State of Nebraska

**Nebraska Administrative Regulation
Fiscal Impact Statement**

Agency: Department of Motor Vehicles

Title: 247

Chapter: 12

Name: **RULES AND REGULATIONS**

GOVERNING THE DEPARTMENT OF MOTOR VEHICLES

RECOMMENDATIONS TO THE BOARD OF PARDONS

FOR REPRIEVE OF OPERATOR'S LICENSES REVOCATIONS.

Prepared By:

Date Prepared:

Phone:

Statement Status:

Bart Moore

11/2/2021

471-3902

Draft

Final

Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Increase Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decrease Costs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Impact:

NONE

NEBRASKA ADMINISTRATIVE CODE

TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 12

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

RULES AND REGULATIONS GOVERNING THE DEPARTMENT OF MOTOR VEHICLES
RECOMMENDATIONS TO THE BOARD OF PARDONS FOR REINSTATEMENT
REPRIEVE OF
OPERATOR'S LICENSES REVOKED REVOCATIONS, PURSUANT TO NEB. REV. STAT.
~~§§ 60-6,196, 60-6,197 AND 60-6,199 THROUGH 60-6,209, PURSUANT TO NEB. REV.~~
STAT. §§ 83-1,127 AND 83-1,129.

Approval Date: October 2, 1998

Amendment Date: _____

NEBRASKA ADMINISTRATIVE CODE

TITLE 247 — NEBRASKA DEPARTMENT OF MOTOR VEHICLES

CHAPTER 12 — RULES AND REGULATIONS GOVERNING THE DEPARTMENT OF MOTOR VEHICLES RECOMMENDATIONS TO THE BOARD OF PARDONS FOR REINSTATEMENT OF OPERATOR'S LICENSES REVOKED PURSUANT TO NEB. REV. STAT. §§ 60-6,196, 60-6,197 AND 60-6,199 THROUGH 60-6,209, PURSUANT TO NEB. REV. STAT. §§ 83-1,127 AND 83-1,129.

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NEBRASKA ADMINISTRATIVE CODE

TITLE 247 NEBRASKA DEPARTMENT OF MOTOR VEHICLES

CHAPTER 12

CHAPTER 12 RULES AND REGULATIONS GOVERNING THE DEPARTMENT OF MOTOR VEHICLES RECOMMENDATIONS TO THE BOARD OF PARDONS FOR REINSTATEMENT REPRIEVE OF OPERATOR'S LICENSES REVOKED REVOCATIONS. PURSUANT TO NEB. REV. STAT. §§ 606,196, 60-6,197 AND 60-6,199 THROUGH 60-6,209, PURSUANT TO NEB. REV. STAT. §§ 83-1,127 AND 83-1,129.

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Action on Application	60-6,209	005
Minimum Requirements for Favorable Recommendation	60-6,209	006
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Recommendation	60-6,209	008
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APPROVAL DATE: ~~October 2, 1998.~~

CHAPTER 12 RULES AND REGULATIONS GOVERNING THE DEPARTMENT OF MOTOR VEHICLES RECOMMENDATIONS TO THE BOARD OF PARDONS FOR REINSTATEMENT REPRIEVE OF OPERATOR'S LICENSES REVOKED REVOCATIONS. PURSUANT TO NEB. REV. STAT. §§ 60-6,196, 606,197 AND 60-6,199 THROUGH 60-6,209, PURSUANT TO NEB. REV. STAT. §§ 83-1,127 AND 83-1,129.

001 SCOPE. Neb. Rev. Stat. § 60-6,209 provides an avenue for persons currently under a fifteen-year ~~(15-year)~~ license revocation for a driving under the influence conviction to apply for a reprieve of the revocation. ~~to have his or her license reinstated after seven (7) years of the fifteen-year (15-year) sentence have been served.~~ The statute permits such persons to file an application with the Department of Motor Vehicles not more often than once per calendar year. Upon receipt of the application and application fee, ~~the~~ Department will act on the application by making a recommendation to the Board of Pardons. These rules and regulations govern the application and the recommendation process. The Board makes the ultimate decision and is not bound by the Department's recommendation. These rules and regulations do not govern the Board's decision making process.

002 PURPOSE. These rules and regulations relate to the discretionary authority of the Board to reprieve a criminal sentence. The rules describe the process the Department follows in arriving at a recommendation to the Board. While there are conditions and circumstances that require the Director to recommend that the application be denied, there is no circumstance or condition that requires a favorable recommendation. The Director must hold the public safety paramount to the reprieve of license revocation. The rules and regulations are to be interpreted liberally and in the spirit of public safety. Applicants are expected to be forthright and honest. Deception will be considered grounds for a recommendation of denial.

003 DEFINITIONS.

003.01 Affiant means the person who completes and signs an affidavit in front of a notary.

003.02 Applicant means any person serving a fifteen-year ~~(15-year)~~ license revocation sentence who has filed an application with the Department for a recommendation to the Board for a reprieve reinstatement of his or her license the revocation.

003.03 Application means the form prescribed by the Department upon which the applicant must request a recommendation and includes any other evidence filed by the applicant and/or any other person or agency.

003.04 Board means the Nebraska Board of Pardons.

003.05 BrAC the breath alcohol concentration in a given amount of breath, expressed by a weight by volume (w/v) based upon grams of alcohol per 210 liters of breath (2100:1 ratio).

003.05 06 Date of the revocation order means the date the revocation goes into effect pursuant to the judgment of the court in accordance with Neb. Rev. Stat. §§ 60-6,196 and 60-6,197.

003.06 07 Department means the Nebraska Department of Motor Vehicles.

003.07 08 Director means the Director of the Department or his or her delegate acting under the Director's authority.

003.08 09 Ignition interlock device ~~means an a device that is designed to allow a driver to start a motor vehicle if the driver's BrAC is below the set point and to prevent the driver from starting the motor vehicle if the driver's BrAC is at or above the set point. electronic device with microcomputer logic and internal memory, having a breath alcohol analyzer as a major component, that interconnects with the ignition and other control systems of a motor vehicle. The purpose of the ignition interlock device, which as required by Neb. Rev. Stat. §60-6,211.05 and approved by the Department in 250 NAC 1,~~ is to measure the BrAC of an intended probationary the driver, to prevent the motor vehicle from being started if the BrAC exceeds a preset limit, and to deter and to record circumvention, tampering, disabling, bypassing, or altering in any way. attempts to circumvent and tamper with the device and to encourage the probationary driver to adhere to the probationary requirements. The ignition interlock device, as defined in Neb. Rev. Stat. § 60-6,211.05, must meet or exceed the standards of the National Highway Traffic Safety Administration as published in Volume 57, No. 67, of the Federal Register on April 7, 1992 (57 FR 11772) for Breath Alcohol Ignition Interlock Devices, as amended.

003.10 Ignition Interlock Permit (IIP) a permit issued to a driver which allows the driver to operate a motor vehicle or vehicles which is equipped with an ignition interlock device. The permitted uses of the driver's IIP shall be printed on the back of the IIP. An IIP will not confer CDL privileges.

003.09 11 License means any license or permit to operate a motor vehicle issued under the laws of this state and includes the privilege to drive whether or not a person holds a valid license or permit.

003.40 12 Recommendation means the written finding and conclusion of the Director based on the application. The recommendation is made to the Board, but is not binding on it.

003.44 13 Reprive means lessening the severity of a fifteen-year (15-year) license revocation. A reprive includes the possibility of restrictions on a license or ignition interlock permit (IIP) to operate a motor vehicle. The fifteen-year (15-year) revocation remains in place. The reprive allows the applicant to obtain an ignition interlock permit (IIP) ~~reinstate a limited privilege to drive until the original fifteen-year (15-year) license revocation has expired.~~

003.42 14 Revocation means the termination by a court of competent jurisdiction or any formal action of the Department of a person's operator's license, which termination shall not be subject to renewal or restoration. At the expiration of the period of termination, the person may make application for a new license.

003.43 15 State-certified substance abuse counselor means an individual certified ~~in~~ by or licensed by the state of Nebraska in compliance with the Alcohol and Drug Counseling Practice Act (Neb. Rev. Stat. §38-301 et. seq.), with Title 209, Nebraska Administrative Code, Regulations for Certifying Alcohol/Drug Abuse Counselors Under the Division of Alcoholism, Drug Abuse and Addiction Services Act.

003.44 16 State-certified substance abuse program means a program certified ~~in~~ by or licensed by the state of Nebraska in compliance with Title 203, Nebraska Administrative Code, Chapter 5.

004 APPLICATION.

004.01 Who May Apply. Any person whose operator's license has been revoked pursuant to a conviction for a violation of Neb. Rev. Stat. §§60-6,196, 60-197, and 60-6,199 to 60-6,204 for a third or subsequent time for a period of fifteen years. ~~has served seven (7) years of a fifteen-year (15-year) license revocation.~~

004.01A How Often. The applicant may apply not more often than once per calendar year.

004.01B Fee. A non-refundable application fee of one hundred dollars shall be submitted with the application.

004.02 Application Form. Any person applying for a recommendation must complete and file an application form prescribed by the Department. The form prescribed by the Department is included as part of these rules and regulations as *Attachment 1*. The form must be completely filled out according to the instructions accompanying the application. Incomplete applications, applications without the required fee, or applications not completed according to the instructions may be passed on to the Board with a recommendation of denial.

004.02A Additional Information or Documentation. The applicant may include any additional evidence, information, or documentation he or she thinks may aid the Department in making its recommendation or the Board in making a decision. Information received after the recommendation has been made will be forwarded to the Board.

004.03 Withdrawal of Application. An applicant may withdraw his or her application for any reason at any time prior to the Director submitting a recommendation to the Board. The request to withdraw must be in writing. The fee shall not be refunded to the applicant.

004.04 Expiration of Application. If the application is not complete when it is filed, the Department will keep an open file. If the application is not complete within one (1) year of the date the Department opened the file, the Department ~~will~~ may forward the file to the Board with a recommendation for denial.

005 ACTION ON APPLICATION.

005.01 Receipt of Application. ~~Upon receipt, t~~The Director shall review the application and make a recommendation to the Board. If the applicant does not meet the minimum requirements for a favorable recommendation, the Department may forward the application to the Board with a recommendation of denial without further review or investigation.

005.02 Investigation. If the application meets the minimum requirements, the Director may, in his or her discretion, make any investigation of the applicant he or she deems necessary or desirable.

005.02A Notification: Prosecuting Attorney. The Director ~~shall~~ may notify and request information from the prosecuting attorney in the location where the fifteen year (15-year) revocation was imposed.

005.02B Notification: Other Persons or Agencies. The Director may, in his or her discretion, notify and request information from the prosecuting attorney and/or local law enforcement agency, or any other person in any or all of the locations the applicant has lived since the date of the revocation order.

005.02C Request for Additional Information or Clarification. The Director may, in his or her discretion, request further information or clarification from the applicant. Failure to respond to the request may result in a recommendation for denial.

005.03 Investigation by Board. The Board may make its own investigation of any applicant irrespective of any investigation the Director may have conducted. The Board's investigation is not governed by these rules and regulations.

006 **MINIMUM REQUIREMENTS FOR FAVORABLE RECOMMENDATION.**

006.01 Minimum Requirements. The Department *may* recommend a reprieve ~~reinstatement~~ if the applicant shows the following:

006.01A Completion of State-certified Substance Abuse Program. The applicant must demonstrate that he or she has completed a state-certified substance abuse program. The program must have been completed since the date of the arrest.

~~**006.01B Evidence of Recovery Without State-certified Treatment.** If the applicant has not completed a state-certified substance abuse program since the date of the arrest, the applicant may show by other evidence that he or she is recovering or has substantially recovered from the dependency on or tendency to abuse alcohol or drugs. This evidence may be shown by the evidence in the application (*Attachment 1*), affidavits (1-006.01C), and the current evaluation (1-006.01F), that are required of all applicants. The applicant may include any evidence he or she believes tends to establish that he or she has substantially recovered from the dependency on or tendency to abuse alcohol or drugs.~~

006.01CB Documentation of Involvement in an Established Self-help Program.

Documentation of involvement in an established self-help program, (Alcoholics Anonymous, Narcotics Anonymous, etc.), to support abstinence must be in the form of at least ~~three~~ two (2) affidavits from fellow program members ~~or~~ and one (1) from a sponsor, if applicable. The affidavits must be on forms approved by the Department and may be obtained from the Department as part of the approved application form.

006.01CB1 Confidentiality. The application is a public record. If anonymity is important to the affiant's own recovery, for example, if the affiant is a member of Alcoholics Anonymous, the affiant may indicate on the affidavit that he or she wants the affidavit to be confidential. If the affiant so requests, the affidavit shall be kept separate from the application and kept confidential. The affidavits so designated shall be used only by the Department and the Board in its consideration of whether to restore the applicant's privilege to drive.

006.01D C Documentation of Involvement in a Support Program Other than an Established Self-help Program. If the applicant has an informal support program rather than an established support group, he or she must provide independent written documentation of the nature of that program and how it helps to support continued abstinence. This documentation must be in the form of at least three (3) affidavits, ~~only one~~ (1) of which may be from a relative or employer. The affidavits must be on forms approved by the Department and may be obtained from the Department as part of the approved application form.

006.01ED Other Relevant Information Permitted. Any pertinent information, in addition to the minimum requirements listed above, for either support program involvement or abstinence, may be included within the affidavits. Of particular interest, for example, would be the writer's observations concerning any changes in the applicant's lifestyle and general attitude that may reflect the overall stability of his or her continued recovery and/or abstinence.

006.01FE Current Evaluation by a State-certified Substance Abuse Counselor. The applicant must demonstrate through a current evaluation completed by a state-certified substance abuse counselor that he or she continues in recovery. ~~If the applicant is a resident of Nebraska, the evaluation must be done by a substance abuse counselor certified in Nebraska. If the applicant is a resident of another state, he or she may secure an evaluation from a counselor certified in the State of Nebraska or a counselor certified or approved in the state of the applicant's residence. The individual or agency conducting the evaluation in another state must have the expertise and proper authorization within that state to evaluate alcohol/drug related problems.~~ It is the responsibility of the applicant to locate such service provider and pay all costs of such treatment.

006.01FE1 Additional Evaluations. The Department can require an additional evaluation if the Department determines the evaluation submitted by the evaluator of the applicant's choice is insufficient.

006.01GF Abstinence. The Director will recommend denial if there is any indication that the applicant continues to consume alcohol or drugs, except drugs taken as directed by a licensed physician. The applicant must have abstained from alcohol and drug consumption for a period sufficient to establish continuing recovery.

006.01HG Subsequent Alcohol or Drug Related Driving Convictions. The Director will recommend denial if the applicant has, since the date of the revocation order, been convicted of any drunk driving offense or for refusing a chemical test in this or any other state.

006.01IH Subsequent Driving under Suspension Convictions. The Director will recommend denial if the applicant has, since the date of the revocation order, been convicted of driving while under suspension, revocation, or impoundment in this or any other state.

006.01JI License Otherwise Subject to Revocation. The Director will recommend denial if the applicant's license is revoked or suspended for any other reason in this or any other state.

006.01J11 Chance to Cure: Driving Related Revocations Predating Revocation Order. A revocation or suspension for some other reason may be cured if the reason for the revocation or suspension predated the date of the revocation order and the applicant is otherwise eligible for reinstatement, except for the fifteen-year (15-year) revocation, if the applicant demonstrates he or she has met the requirements for reinstatement. The applicant must attach to the application a completed *Attachment 2*, indicating that the applicant has met the requirements for reinstatement.

006.01J1A Example. “D” is sentenced to a fifteen-year (15-year) license revocation on July 1, 1990. The abstract of his driving record also indicates that his license was suspended because he failed to pay a speeding ticket from September 1, 1988. “D” can have the impediment to a favorable recommendation removed by paying the ticket and demonstrating that he has complied with all the requirements for reinstatement.

006.01J12 Chance to Cure: Non-driving Related License Revocations. A revocation or suspension for some other reason that is not related to driving may be cured by demonstrating that the applicant is otherwise eligible for reinstatement, compliance whether the revocation occurred before or after the date of the fifteen-year (15-year) revocation order. The applicant must attach to the application a completed *Attachment 2*, indicating that the applicant has met the requirements for reinstatement.

006.01J2A Example. “D” is sentenced to a fifteen-year (15-year) license revocation on July 1, 1990. On March 1, 1998, his license is suspended for failure to pay child support. If “D” meets other criteria for reinstatement, the Director will not base a recommendation of denial on the revocation for failure to pay child support.

006.01J13 Chance to Cure: Board of Pardons Rules. The Department may also consider the Board’s rules for approval of reprieves when making a recommendation.

007 DISCRETIONARY CONSIDERATIONS.

007.01 Evidence Demonstrating Applicant May Continue to Present a Danger to Public Safety. The Director may recommend against the reprieve reinstatement for any reason if he or she concludes the applicant continues to be a danger to public safety. The reasons for recommending against the reprieve reinstatement must be stated in writing to the Board.

008 RECOMMENDATION.

008.01 Upon Receipt of the Application. When the Director receives the application, and the application fee, he or she will review it and any additional

evidence filed with it. The Director may, at his or her discretion, request additional evidence from the applicant. The Director may conduct any investigation he or she determines is necessary to protect the public safety. Failure to cooperate with requests for additional information may be cause for an unfavorable recommendation.

008.02 Timelines. The Director will make a recommendation to the Board within a reasonable time, taking into consideration the completeness of the application, and the progress of any investigation the Director may deem necessary.

008.03 Written Recommendation. The Director shall make a recommendation for reprieve ~~reinstatement~~ or denial. The recommendation shall be in writing and shall briefly state the reasons for the recommendation. The Director will include with the recommendation (1) the original application; (2) all other evidence in the file, including evidence submitted by the applicant or any other person, for or against the reprieve ~~reinstatement~~; and (3) any other applications the applicant has previously filed under these rules and regulations.

008.04 Copy to Applicant. A copy of the recommendation shall be mailed to the applicant by U.S. mail at the address provided by the applicant.

008.05 Opportunity to Withdraw Application or File Written Response. At any time prior to the date the Board considers the application, the applicant shall be allowed to withdraw his or her application from consideration or make any written response. The response will be forwarded to the Board, but the Director will not amend a recommendation based on the response.

009 WITHDRAWAL OF REINSTATEMENT REPRIEVE.

009.01 Reinstatement Reprieve Conditioned on Continued Recovery. If the Board grants a reprieve, the Department will withdraw an applicant's license or ignition interlock permit (IIP) if the Department becomes aware that the applicant has been subsequently convicted of any violation of Neb. Rev. Stat. § 60-6,196 or 60-197, or comparable city or village ordinance, or any alcohol related driving offense under any law in any state.

009.01A Thirty-day (30-day) Written Notice. When the Director becomes aware of the subsequent conviction, he or she will mail notice to the applicant that his or her license or ignition interlock permit (IIP) will be summarily revoked for the remainder of the original fifteen-year~~(15-year)~~ revocation period, effective thirty ~~(30)~~ days after the notice is mailed.

009.01B Where and How Mailed. The notice will be sent by first-class mail to the applicant at his or her last known address as shown in the records of the Department. The applicant is presumed to know of this consequence and the Department need not show that the applicant received actual notice of the summary revocation or send any other notice.

009.01C Withdrawal Independent of Any Other Court-imposed Penalty.

The applicant's license or ignition interlock permit (IIP) will be revoked for the time remaining on the fifteen-year (15year) revocation without regard for any penalty that may be imposed by the court for the same offense.

~~**009.01C1 Example.** The date of the original revocation order from the court is July 1, 1990. Eligibility date is July 1, 2005. On January 2, 1998, the Board commutes the sentence and the applicant reinstates her license. On September 1, 1999, the applicant is convicted of driving while intoxicated. The Department receives notice of the conviction on October 1, 1999, and mails notice to the applicant that her license will be summarily revoked. On October 31, 1999, the applicant's license is revoked and the original date of eligibility is reinstated. The applicant is not eligible to reinstate her license again until July 1, 2005. This is without reference to any criminal penalty. If the court sentences the applicant to a shorter revocation, the applicant will not be eligible for reinstatement until July 1, 2005. If the court sentences to the applicant to a license revocation beyond July 1, 2005, the applicant will not be eligible to reinstate her license until the date set by the court. That is, the applicant cannot reinstate until the most distant date.~~

009.01D Evidence of Failure to Comply with Conditions of Reprieve. If the Director becomes aware of any evidence tending to show the applicant is violating any condition of the reprieve order, the Director will make the Board aware of the evidence.

010 REINSTATEMENT.REPRIEVE.

010.01 Notice to Department of Reprieve. If the Board commutes grants a reprieve of the fifteen year license revocation, an applicant's license, the Board will notify the Department of its decision. The Board may, in its sole discretion, order any restriction it deems necessary as a condition of the reprieve or reinstatement.

010.02 Reinstatement Requirements. Once the Board has notified the Department of a reprieve, the successful applicant may apply to the Department for a letter clearing him or her to apply and test for the document they are eligible for, either a license or ignition interlock permit (IIP). The applicant must do the following:

010.02A Reinstatement Fee. The applicant must pay to the Department a revocation reinstatement fee for all open withdrawals with the exception of the withdrawal(s) that are the subject of the current reprieve. The reinstatement fee for the current reprieve will be required to be paid at the end of the revocation period. The amount of the fee is set by statute.

010.02B Proof of Financial Responsibility. At the time the applicant applies to the Department for an ignition interlock permit (IIP) reinstatement, he or she must file an SR-22 and maintain keep the SR-22 for the required statutory period for all other withdrawals. If there are no other withdrawals to reinstate, the applicant will only be required to file an SR-22 for the duration of the revocation, or until there are no vehicles registered in their name only. on file for three (3) years after the date of the Board's decision to commute the sentence. Failure to maintain keep an SR-22 on file for the three-year (3-year) period will result in the suspension of the applicant's license or ignition interlock permit (IIP).

010.02C Ignition Interlock Device. The Board may, in its sole discretion, when granting a license reinstatement or reprieve to any person who has made application pursuant to Neb. Rev. Stat. § 60-6,209, order such person to operate only motor vehicles equipped with an ignition interlock device approved by the Director. The Board may order the use of such a device for a period of time not to exceed any period of revocation the applicant is subject to at the time the application for an ignition interlock permit (IIP) license reinstatement is made.

010.02D Ignition Interlock Device; Ignition Interlock Permit (IIP) License; Issuance. Any person required by the Board to operate only motor vehicles equipped with an ignition interlock device shall make application to the Director for the issuance of an ignition interlock permit (IIP) Class O license restricted to the operation of a motor vehicle equipped with such an ignition interlock device. Such person shall provide satisfactory proof that an ignition interlock device has been installed and maintained on any motor vehicle such person shall operate for the duration of the original fifteen year revocation period. Any person eligible for issuance of an ignition interlock permit (IIP) license with an ignition interlock restriction shall be required to meet all other conditions of licensure as required by statute or regulation.

010.02E Ignition Interlock Device; Rules and Regulation Relating to Approval of the Ignition Interlock Devices and the Means of Installation of the Devices. Applicants ordered by the Board to operate only motor vehicles equipped with an ignition interlock device shall be bound by the provisions of Title 250, Nebraska Administrative Code, Chapter 1, Rules and Regulation Relating to Approval of the Ignition Interlock Devices and the Administration of the Ignition Interlock Program Means of Installation of the Devices, as well as the provisions of this rule.

010.02F Ignition Interlock Device; Violation; Revocation. Any person ordered by the Board of Pardons to operate only motor vehicles equipped with an ignition interlock device shall be subject to the criminal violations under Neb. Rev. Stat. §83-1,127.02, restricted to operating a motor vehicle equipped with such an ignition interlock device who operates upon the highways of this state a motor vehicle without such an ignition interlock device or who operates a motor vehicle equipped with such an ignition interlock device which has been disabled,

~~bypassed, or altered in any way, shall, upon the order of a court as a part of the judgment of conviction, have his or her license revoked for a period of fifteen (15) years from the date ordered by the court. The revocation shall be administered upon sentencing, upon the final judgment of any appeal or review, or upon the date that any probation is revoked. The revocation shall not run concurrently with any jail time imposed.~~_____

Attachment 1 -- 247 NAC, Chapter 12

APPLICATION

Name: _____
Last First Middle

Social Security Number: _____

List below all the names or surnames you have used or been known by and describe when, how, and why your name was changed.

Last, First, Middle	Used From	Used To	Description of Change
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sex: Male Female Date of Birth: Month ____ Day ____ Year ____

Place of Birth (City, State, Country): _____

Name, address, and phone number of legal counsel (if any):

Name _____

Address _____

Legal Counsel Phone (_____) _____

Your mailing address for the next six months contact information:

Address _____

P.O. Box _____ Apartment _____

City _____ County _____

State _____ Zip Code _____ Country _____

Phone number _____ E-mail address _____

License revocation for which you are seeking to receive a reprieve have commuted:

Date of Offense _____ County of Offense _____

Date of Sentencing _____

Other 15-year Revocations:

Have you received any other lifetime or 15-year license revocations? Yes No

Date of Offense _____ County of Offense _____

Date of Sentencing _____

Date of Offense _____ County of Offense _____

Date of Sentencing _____

Have you applied for a reprieve before? If so, when? _____

~~Attach an additional sheet if necessary.~~

Personal Information

1. Give name and age of the following:

a. Spouse (or former spouse) _____

b. Children (please provide ages) _____

How many live with the applicant? _____

c. Father _____

d. Mother _____

e. Sisters _____

f. Brothers _____

-
2. State the highest grade of education you have completed: _____
 3. Name and address of high school: _____

 4. Any higher education degrees completed: _____
 5. Have you ever been a member of the United States Armed Forces? Yes No
 - a. If "yes", what branch? _____
 - b. Active _____ Reserve _____
 6. Dates of duty: _____
 7. Date of discharge: _____
 8. Type of discharge: _____

Addresses Since the Date of the Order of Revocation

List every permanent and temporary residence you have had since the date of the order of revocation. All periods of time must be accounted for. List addresses in reverse chronological order starting with your current address.

Current Address From Mo./Yr. _____
 Address _____ Apt. _____
 City _____ County _____
 State _____ Zip _____ Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
 Address _____ Apt. _____
 City _____ County _____
 State _____ Zip _____ Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
 Address _____ Apt. _____
 City _____ County _____
 State _____ Zip _____ Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
 Address _____ Apt. _____

City _____ County _____
State _____ Zip _____ Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
Address _____ Apt. _____
City _____ County _____
State _____ Zip _____ Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
Address _____ Apt. _____
City _____ County _____
State _____ Zip _____ Country if not United States _____

Attach a separate sheet if necessary to include all addresses.

Employment

List all past employers for the last ten years.

List every job you have held since the date of the revocation order beginning with your current, or most recent, job. Include self-employment, temporary, and part-time employment. Account for any periods you were unemployed.

From Mo./Yr. _____	To Mo./Yr. _____
Employer _____	Supervisor _____
Address: _____	_____
City _____	County _____
State _____ Zip _____	Country if not United States _____
Phone (____) _____	_____
Occupation _____	_____
Reason for Leaving _____	_____

From Mo./Yr. _____	To Mo./Yr. _____
Employer _____	Supervisor _____
Address: _____	_____
City _____	County _____
State _____ Zip _____	Country if not United States _____
Phone (____) _____	_____
Occupation _____	_____
Reason for Leaving _____	_____

From Mo./Yr. _____
Employer _____
Address: _____
City _____
State _____ *Zip* _____
Phone (____) _____
Occupation _____
Reason for Leaving _____

To Mo./Yr. _____
Supervisor _____

 _____ *County* _____
Country if not United States _____

From Mo./Yr. _____
Employer _____
Address: _____
City _____
State _____ *Zip* _____
Phone (____) _____
Occupation _____
Reason for Leaving _____

To Mo./Yr. _____
Supervisor _____

 _____ *County* _____
Country if not United States _____

From Mo./Yr. _____ **To Mo./Yr.** _____
Employer _____ *Supervisor* _____
Address: _____
City _____ *County* _____
State _____ *Zip* _____ *Country if not United States* _____
Phone (____) _____
Occupation _____
Reason for Leaving _____

Employer Name	Address	Supervisor Name	Dates Employed

Attach another sheet if necessary.

~~Since the date of the revocation order, have you been terminated, suspended, or allowed to resign in lieu of termination? Yes No~~

~~If "yes", on a separate sheet of paper provide a brief explanation of the circumstances of each occurrence.~~

Contacts with Law Enforcement

~~Since the date of your revocation order, have you been cited, arrested, charged, or convicted for any violation of any law? Yes No~~

~~If "yes", complete a **Form A** for each citation, arrest, charge or conviction.
(You may make copies of **Form A** as needed.)~~

Civil Actions/Lawsuits

~~Since the date of your revocation order, have you been a party in any lawsuits or any other civil or administrative proceedings? Yes No~~

~~If "yes", complete a **Form B** for each lawsuit, civil or administrative proceeding.
(You may make copies of **Form B** as needed.)~~

Traffic Violations

~~Have you had any traffic violations since the date of your revocation order? Yes
 No~~

~~If "yes", complete a **Form C** for each traffic violation.
(You may make copies of **Form C** as needed.)~~

Alcohol and Driving History

~~1. Have you been convicted of an alcohol related offense in Nebraska or any other state since the order of revocation?~~

~~Yes No~~

~~If "yes", list all offenses on a separate sheet and attach a copy of your criminal and/or driving record from all the states where you have a conviction.~~

~~2. Have you been involved in an accident while you had alcohol in your body?~~

~~Yes No~~

~~If "yes", complete a **Form D** for each accident.
(You may make copies of **Form D** as needed.)~~

Have you ever been convicted of other crimes? If so, give the full particulars:

History of Alcohol Use

When did you last drink an alcoholic beverage? _____

Do you still drink any alcoholic beverages? Yes No

Describe your drinking history from the date your license was revoked up until your last drink:

(Attach additional sheet if necessary.)

History of Drug Use

When did last use any drug, not including alcoholic beverages or prescribed medications?
Date: _____

What drug or drugs did you use?

Do you still use drugs? Yes No

Describe your drug use history from the date of your revocation up until your last use:

Maintaining Sobriety

Please discuss how you plan to maintain sobriety.

1. Are you participating in a recognized alcohol or drug self-help program such as Alcoholics Anonymous or Narcotics Anonymous? Yes No

- a. How long have you attended? _____
- b. How often do you attend? _____
- c. Name and address of your sponsor, if any: _____

- d. Name and address of any other persons who can attest to your participation and sobriety: _____

2. Are you participating in a counseling program or after-care program? Yes No

- a. How long have you attended? _____
- b. How often do you attend? _____
- c. Name and address of program: _____

- d. Name and address of professional/counselor: _____

3. If you do not participate in a recognized support system, are you involved with any informal support system? Yes No

- a. Describe the support system: _____

- b. Name and address of any persons who participate in your support system who can attest to your participation and your sobriety: _____

4. How do you intend to maintain your sobriety? Describe in some detail how you plan to stay sober:

This application will become a matter of public record once it is received by the Department of Motor Vehicles. Falsification of any portion of this application can be reason for denial.

Court Record

~~_____ Attach a copy of the court record of the conviction that resulted in your fifteen-year license revocation. The record must show the date you were sentenced and the sentence you received. (Note: In most counties, you can ask for a copy of the docket sheet or card.)~~

Receipt

~~_____ Attach a copy of a receipt or other document showing that all court costs associated with your conviction have been paid.~~

OATH OF APPLICANT

State of _____)
_____) ss.
County of _____)

I have read the foregoing questions and have answered them fully and frankly. The answers are complete and true of my own knowledge. The attachments to this application are also complete and true of my own knowledge. I understand that giving false information is grounds for a recommendation of denial.

Signature of Applicant

Date

~~SUBSCRIBED AND SWORN to before me this _____ day of _____, A.D. _____.~~

Notary Public

~~SEAL OR STAMP MUST BE AFFIXED.~~

Affidavits

You must include with the application three (3) affidavits that may be from a relative, employer, fellow program members or a sponsor. ~~Only one (1) may be from a relative or employer.~~ All three (3) affidavits must be from people who participate in your recovery program and who are willing to swear under oath that they know you well, that to the best of his or her knowledge you do not drive a motor vehicle, and you are currently abstaining from the consumption of drugs and alcohol.

To the Affiant:

The person presenting this to you has been convicted of driving under the influence of alcohol or drugs at least three (3) times. His or her license has been revoked for 15 years as part of the court's sentence. Nebraska permits a such persons who has served at least seven (7) years of a 15-year revocation to make an application to the Department of Motor Vehicles to have ~~the license reinstated~~ a reprieve. Based on the application, the Director of the Department of Motor Vehicles will make a recommendation to the Board of Pardons. This affidavit is required as part of the application process.

You must answer the following questions completely and truthfully:

1. Your name _____
Your Address _____
Phone number where you can be reached weekdays between 8 a.m. and 5 p.m.
(____) _____
Please indicate most convenient times to reach you _____

2. Name of person for whom you are making this affidavit: _____

3. Relationship to the applicant? _____
4. How do you know the applicant? _____

5. How long have you known him or her? _____
6. Does the applicant participate in an established self-help program (Alcoholics Anonymous, Narcotics Anonymous, etc.) Yes No
If "yes", what program _____
7. If "no", does the applicant participate in an informal or other kind of self-help program to help maintain sobriety? Yes No
8. Describe that self-help program or support group? _____

9. How often does the applicant participate? _____

10. How do you help the Applicant stay sober? _____

11. To your knowledge, does he or she consume drugs or alcohol? Yes No

If "yes", please state what you know about his or her alcohol or drug consumption: _____

If "no", please explain why you think he or she is abstaining from alcohol and/or drugs:

12. To your knowledge, does he or she drive a motor vehicle? Yes No

If "yes", please explain what you know about his or her driving: _____

13. What changes have you seen in the applicant since he or she began recovery: _____

14. Is there anything else you want to say about the applicant? _____
(Attach additional paper if needed for any of the questions.)

State of _____)
) ss.
County of _____)

I, _____, being first duly sworn state that I am well acquainted with _____, and I have completely and truthfully answered the questions in this affidavit.

Signature of Affiant

Date

SUBSCRIBED AND SWORN to before me this _____ day of _____, A.D. _____.

Notary Public

SEAL OR STAMP MUST BE AFFIXED.

RELEASE

As part of this application, I have undergone a drug and alcohol evaluation done by _____ on _____. I am either providing the evaluation with my application, or it will be sent to the Department separately.

I authorize the Department to make the evaluation part of my application and to send it to the Board of Pardons along with my application. I understand the evaluation will be kept confidential in the files of the Department and the Board of Pardons.

Signature of Applicant

Date

~~SUBSCRIBED AND SWORN~~ to before me this _____ day of _____, A.D. _____.

Notary Public

~~SEAL OR STAMP MUST BE AFFIXED.~~

CURRENT EVALUATION

You must include with the application an evaluation by a state-certified drug and alcohol counselor. You are required to provide the counselor access to all records of past alcohol and drug treatment.

Give this form and the attached release of information form to the evaluator prior to the evaluation. The evaluator must sign this form and return it with the completed application.

To the Evaluator:

The person you are evaluating has been convicted of driving under the influence of alcohol or drugs at least three (~~3~~) times. His or her license has been revoked for 15 years as part of the court's sentence. Nebraska permits a such persons ~~who has served at least seven (7) years of a 15-year revocation~~ to make an application to the Department of Motor Vehicles to have ~~the license reinstated~~ a reprieve. Based on the application, the Director of the Department of Motor Vehicles will make a recommendation to the Board of Pardons, which will make the final decision. The Board of Pardons may make additional investigation.

As part of the application process, the applicant is required to submit to a current evaluation from a state Nebraska certified counselor. The state requires that the evaluation include use of screening tools like the SASSI, Western Personality Inventory, Signs and Symptoms Checklist, and Mortimer-Filkens. A depression screen like Beck Depression Scale is encouraged. The evaluation must also include a collateral investigation, which must include a confirmation of substance abuse treatment the applicant has completed since the date of the 15-year revocation order and interviews with persons who know the applicant.

In order to be eligible for consideration for ~~reinstatement~~ reprieve, the applicant must **at a minimum** demonstrate that since the date of the 15-year revocation order that:

1. he or she has not been arrested for driving under the influence of alcohol or drugs;
2. he or she has not been convicted of driving under suspension;
3. he or she has completed a state certified treatment program; **or** can demonstrate recovery from the dependence on or tendency to abuse alcohol and/or drugs without state-certified treatment;
4. his or her license is not subject to revocation for any other reason; **and**
5. he or she has abstained from the consumption of alcohol or drugs (except as physician prescribed) for a period of time sufficient to establish continuing recovery.

The Department of Motor Vehicles can require any other evidence it deems necessary to determine that the person is no longer a danger to the public safety. In part to help meet the minimum requirements, and to help establish that the person is no longer a danger to public safety, the Department requires the person to submit to the Department an evaluation of his or her current state of recovery from the dependence on or tendency to abuse alcohol and/or drugs.

The applicant is required to sign a release authorizing you to get a copy of treatment records. He or she is also required to sign a release authorizing you to send the evaluation to the Director of the Nebraska Department of Motor Vehicles.

The evaluation must address the following questions:

1. Does the evidence gathered in your evaluation clearly indicate if the person is currently abstaining from the consumption of alcohol and/or drugs (except as prescribed)?
2. If so, how long has the person abstained?
3. TREATMENT:
 - (a) Has the applicant successfully completed state-certified treatment?
 - (b) When did the applicant complete the treatment?
 - (c) Where was the treatment? What kind of treatment was it?
 - (d) Has the applicant abstained from alcohol or drug consumption since completion of treatment?
 - (e) Is additional treatment recommended?
4. RELAPSE: What are the risk factors for this particular individual? What are the factors weighing in favor of continued successful recovery?
5. What ongoing support, treatment, or aftercare is the applicant participating in?

Please provide a copy of the evaluation to:

LEGAL DIVISION
Department of Motor Vehicles
301 Centennial Mall South
P.O. Box 94699
Lincoln, Nebraska 68509-4699

Questions should be addressed to: LEGAL DIVISION at the same address. Phone: (402) 471-9593.

I have reviewed the foregoing instructions for completing a substance abuse evaluation for use in connection with an application for a reprieve of a fifteen-year license revocation.

Printed name of evaluator

Signature

Form A: Record of Criminal Action

Report all law enforcement contacts that resulted in an arrest or citation regardless of final disposition.

Name: _____
_____ *Last* _____ *First* _____ *Middle*

Date of incident (or time period involved): _____

Location: _____
_____ *City* _____ *County* _____ *State*

Brief description of incident: _____

Name and address of law enforcement agency involved: _____

Name and address of court involved: _____

Charges at time of arrest: _____

Charges at time of trial: _____

Date of final disposition: _____

Final disposition: _____

Have you been jailed or imprisoned since the date of the revocation order? Yes
No

If "yes", date of incarceration. From _____ To _____

Name of institution _____
Address _____
_____ City _____ County _____ State _____ Zip _____

Attach a copy of the complaint, indictment, trial disposition, sentence, and appeal, if any.

Form B: Record of Civil Actions/Lawsuits

Name: _____
_____ Last _____ First _____ Middle _____

Complete title of action: _____

Name and address of court involved:

Name of Court: _____
Address:: _____
City _____ State _____ Zip _____
Trial date: _____
Brief description of type of action: _____

You may be required to provide more information, depending on the nature of the case.

Form C: Record of Traffic Infractions

Report all traffic infractions, including minor infractions.

Name: _____
_____ *Last* _____ *First* _____ *Middle*

Date of incident (or time period involved) _____

Location: _____
_____ *City* _____ *County* _____ *State*

Brief description of incident: _____

Name and address of law enforcement agency involved: _____

Name and address of court involved: _____

Charges at time of arrest: _____

Charges at time of trial: _____

Date of final disposition: _____

Final disposition: _____

Attach a copy of the final disposition.

AUTHORIZATION AND RELEASE

I, (Name) _____

born at (City) _____, (State) _____ (Country) _____

on (Date) _____, having filed with the Director of the Department of Motor Vehicles an application for a recommendation to the Board of Pardons regarding a reprieve ~~the reinstatement of my license~~, hereby apply for and consent to an investigation as to my use or abstention of alcohol and/or drugs, traffic and criminal law violations, and any other matter which may be relevant in ascertaining whether or not a recommendation of reprieve ~~reinstatement~~ should be made.

I also authorize and request every person, firm, company, corporation, governmental agency, law enforcement agency, court, any branch of the U. S. military services or other custodian of my military records, or any other association or institution having control of any documents, records or other information pertaining to me, to furnish to the Nebraska Department of Motor Vehicles any such information, and to permit the Nebraska Department of Motor Vehicles to inspect and make copies of any such documents, records, or other such information.

~~I authorize the National Personnel Records Center in St. Louis, MO, or other custodian of my military records to release to the Nebraska Department of Motor Vehicles information or photocopies from my military personnel and related medical records, or only the following information/records: _____.~~

~~This could include a copy of my DD Form 214, Report of Separation.~~

I hereby release, discharge and exonerate the Nebraska Department of Motor Vehicles, its agents and representatives, and any person so furnishing information from any and all liability of every nature and kind arising out of the furnishing or inspection of such documents, records, and other information or the investigation made by the Nebraska Department of Motor Vehicles. I understand that I may request copies of such documents, records or other information as may be available to me by law.

I authorize custodians of documents, records and other sources of information pertaining to me to release such information upon request of the Nebraska Department of Motor Vehicles, regardless of any previous agreement to the contrary.

Copies of this authorization that show my signature are as valid as the original signed by me.

State of _____
ss. *Signature of Applicant*

Date

~~Subscribed and sworn to before me this~~ _____ day of
_____ A.D., _____

Notary Public

~~SEAL OR STAMP MUST BE AFFIXED TO ORIGINAL.~~

