

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 624

FINAL READING

Introduced by Pirsch, 4; Fulton, 29.

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and punishments; to amend section
2 28-905, Revised Statutes Cumulative Supplement, 2006;
3 to modify provisions relating to operation of a motor
4 vehicle to avoid arrest; and to repeal the original
5 section.

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

1 Section 1. Section 28-905, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 28-905 (1) Any person who operates any motor vehicle to
4 flee in such vehicle in an effort to avoid arrest or citation ~~for~~
5 ~~the violation of any law of the State of Nebraska constituting a~~
6 ~~misdemeanor, infraction, traffic infraction, or any city or village~~
7 ~~ordinance, except nonmoving traffic violations,~~ commits the offense
8 of ~~misdemeanor~~ operation of a motor vehicle to avoid arrest.

9 ~~(2) Any person who operates any motor vehicle to flee~~
10 ~~in such vehicle in an effort to avoid arrest for the violation of~~
11 ~~any law of the State of Nebraska constituting a felony commits the~~
12 ~~offense of felony operation of a motor vehicle to avoid arrest.~~

13 ~~(3) Operating a motor vehicle to avoid arrest under~~
14 ~~subsection (1) of this section is a Class I misdemeanor. The court~~
15 ~~shall, as part of the judgment of conviction, order such person not~~
16 ~~to operate any motor vehicle for any purpose for a period of two~~
17 ~~years and shall order that the operator's license of such person be~~
18 ~~revoked for a like period.~~

19 ~~(4) Operating a motor vehicle to avoid arrest under~~
20 ~~subsection (2) of this section is a Class IV felony. The court~~
21 ~~shall, as part of the judgment of conviction, order such person not~~
22 ~~to operate any motor vehicle for any purpose for a period of two~~
23 ~~years and shall order that the operator's license of such person be~~
24 ~~revoked for a like period.~~

25 (2)(a) Except as otherwise provided in subsection (3)

1 of this section, any person who violates subsection (1) of this
2 section shall be guilty of a Class I misdemeanor.

3 (b) The court may, as part of the judgment of conviction
4 under subdivision (a) of this subsection, order that the operator's
5 license of such person be revoked or impounded for a period of
6 not more than one year and order the person not to drive any
7 motor vehicle for any purpose in the State of Nebraska for a like
8 period. The revocation or impoundment shall be administered upon
9 sentencing, upon final judgment of any appeal or review, or upon
10 the date that any probation is revoked.

11 (3)(a) Any person who violates subsection (1) of this
12 section shall be guilty of a Class IV felony if, in addition to
13 the violation of subsection (1) of this section, one or more of the
14 following also applies:

15 (i) The person committing the offense has previously been
16 convicted under this section;

17 (ii) The flight to avoid arrest results directly and
18 proximately in the death of or injury to any person if such death
19 or injury is caused directly and proximately by the vehicle being
20 driven by the person fleeing to avoid arrest; or

21 (iii) The flight to avoid arrest includes the willful
22 reckless operation of the motor vehicle.

23 (b) The court shall, as part of the judgment of
24 conviction under subdivision (a) of this subsection, order that
25 the operator's license of such person be revoked or impounded for

1 a period of two years and order the person not to drive any
2 motor vehicle for any purpose in the State of Nebraska for a like
3 period. The revocation or impoundment shall be administered upon
4 sentencing, upon final judgment of any appeal or review, or upon
5 the date that any probation is revoked.

6 ~~(5)(a)~~ (4)(a) Any person who operates a vessel as defined
7 in section 37-1203 to flee in such vessel in an effort to avoid
8 arrest or citation for the violation of any statute punishable as
9 a misdemeanor or any city or village ordinance shall be guilty of
10 misdemeanor operation of a vessel to avoid arrest.

11 (b) Any person violating subdivision (a) of this
12 subsection shall be guilty of a Class I misdemeanor. Upon
13 conviction thereof the court shall, as part of the judgment of
14 conviction, order such person not to operate any vessel for any
15 purpose for a period of one year.

16 ~~(6)(a)~~ (5)(a) Any person who operates a vessel as defined
17 in section 37-1203 to flee in such vessel in an effort to avoid
18 arrest for the violation of any statute punishable as a felony
19 shall be guilty of felony operation of a vessel to avoid arrest.

20 (b) Any person violating subdivision (a) of this
21 subsection shall be guilty of a Class IV felony. Upon conviction
22 thereof the court shall, as part of the judgment of conviction,
23 order such person not to operate any vessel for any purpose for a
24 period of two years.

25 ~~(7)~~ (6) An order of the court under subsection (4) or

1 (5) of this section prohibiting operation of a ~~vehicle or~~ vessel
2 ~~and revoking the operator's license~~ shall be administered upon
3 sentencing, upon final judgment of any appeal or review, or upon
4 the date that any probation is revoked, ~~whichever is later.~~

5 Sec. 2. Original section 28-905, Revised Statutes
6 Cumulative Supplement, 2006, is repealed.