

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 624**

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 such revocation or impoundment shall be  
7 administered upon sentencing, upon final judgment of any appeal or  
8 review, or upon the date that any probation is revoked.

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

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

15 (ii) The flight to avoid arrest results in the death of  
16 or injury to any person; or

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

19 (b) The court shall, as part of the judgment of  
20 conviction under subdivision (a) of this subsection, order that  
21 the operator's license of such person be revoked or impounded for  
22 a period of two years and such revocation or impoundment shall be  
23 administered upon sentencing, upon final judgment of any appeal or  
24 review, or upon the date that any probation is revoked.

25 ~~(5)-(a)~~ (4) (a) Any person who operates a vessel as defined

1 in section 37-1203 to flee in such vessel in an effort to avoid  
2 arrest or citation for the violation of any statute punishable as  
3 a misdemeanor or any city or village ordinance shall be guilty of  
4 misdemeanor operation of a vessel to avoid arrest.

5 (b) Any person violating subdivision (a) of this  
6 subsection shall be guilty of a Class I misdemeanor. Upon  
7 conviction thereof the court shall, as part of the judgment of  
8 conviction, order such person not to operate any vessel for any  
9 purpose for a period of one year.

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

14 (b) Any person violating subdivision (a) of this  
15 subsection shall be guilty of a Class IV felony. Upon conviction  
16 thereof the court shall, as part of the judgment of conviction,  
17 order such person not to operate any vessel for any purpose for a  
18 period of two years.

19 ~~(7)~~ (6) An order of the court under this section  
20 prohibiting operation of a ~~vehicle or~~ vessel and ~~revoking the~~  
21 ~~operator's~~ license shall be administered upon sentencing, upon  
22 final judgment of any appeal or review, or upon the date that any  
23 probation is revoked, whichever is later.

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