

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 238

FINAL READING

Introduced by Lathrop, 12.

Read first time January 13, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to public power suppliers; to amend
2 sections 28-520 and 28-521, Reissue Revised Statutes of
3 Nebraska, and section 70-301, Revised Statutes Cumulative
4 Supplement, 2008; to provide, change, and repeal
5 penalties relating to criminal trespass and interference
6 with electric poles or wires; to adopt the Public Power
7 Infrastructure Protection Act; to harmonize provisions;
8 to repeal the original sections; to outright repeal
9 section 70-310, Reissue Revised Statutes of Nebraska; and
10 to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-520, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-520 (1) A person commits first degree criminal
4 trespass if: ~~7 knowing that he is not licensed or privileged to do~~
5 ~~so, he~~

6 (a) He or she enters or secretly remains in any building
7 or occupied structure, or any separately secured or occupied
8 portion thereof, knowing that he or she is not licensed or
9 privileged to do so; or-

10 (b) He or she enters or remains in or on a public power
11 infrastructure facility knowing that he or she does not have the
12 consent of a person who has the right to give consent to be in or
13 on the facility.

14 (2) First degree criminal trespass is a Class I
15 misdemeanor.

16 (3) For purposes of this section, public power
17 infrastructure facility means a power plant, an electrical station
18 or substation, or any other facility which is used by a public
19 power supplier as defined in section 5 of this act to support the
20 generation, transmission, or distribution of electricity and which
21 is surrounded by a fence or is otherwise enclosed.

22 Sec. 2. Section 28-521, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 28-521 (1) A person commits second degree criminal
25 trespass if, knowing that he or she is not licensed or privileged

1 to do so, he or she enters or remains in any place as to which
2 notice against trespass is given by:

3 (a) Actual communication to the actor; or

4 (b) Posting in a manner prescribed by law or reasonably
5 likely to come to the attention of intruders; or

6 (c) Fencing or other enclosure manifestly designed to
7 exclude intruders except as otherwise provided in section 28-520.

8 (2) Second degree criminal trespass is a Class III
9 misdemeanor, except as provided for in subsection (3) of this
10 section.

11 (3) Second degree criminal trespass is a Class II
12 misdemeanor if the offender defies an order to leave personally
13 communicated to him or her by the owner of the premises or other
14 authorized person.

15 Sec. 3. Sections 3 to 7 of this act shall be known and
16 may be cited as the Public Power Infrastructure Protection Act.

17 Sec. 4. The Legislature finds that the public has
18 an interest in the uninterrupted generation and transmission
19 of electricity by public power suppliers in this state. The
20 Legislature finds that it is in the public interest to protect
21 facilities and infrastructure used in the generation, transmission,
22 and distribution of electricity from damage as a result of
23 knowingly unlawful and malicious acts.

24 Sec. 5. For purposes of the Public Power Infrastructure
25 Protection Act, public power supplier means a public power

1 district organized under Chapter 70, article 6, a public power
2 and irrigation district, a municipality, a registered group of
3 municipalities, an electric cooperative, an electric membership
4 association, a joint entity formed under the Interlocal Cooperation
5 Act, a joint public agency formed under the Joint Public Agency
6 Act, an agency formed under the Municipal Cooperative Financing
7 Act, or any other governmental entity providing electric service.

8 Sec. 6. A person shall be guilty of a Class IV felony if
9 he or she willfully and maliciously:

10 (1) Damages, injures, or destroys or attempts to damage,
11 injure, or destroy:

12 (a) Any machine, appliance, facility, or apparatus owned
13 by a public power supplier that is used for generating electricity;
14 or

15 (b) Any facility or electric wire owned by a public power
16 supplier that is used for the purpose of conducting, transforming,
17 transmitting, or distributing electricity or any pole, bracket,
18 insulator, or other appliance or apparatus owned by a public power
19 supplier that supports or carries any electric wire owned by a
20 public power supplier; or

21 (2) Does any act for the purpose of interrupting the
22 generation, transmission, or distribution of electricity by a
23 public power supplier.

24 Sec. 7. (1) A person shall be guilty of a Class II
25 felony if he or she willfully and maliciously (a) destroys or

1 causes or attempts to cause damage or loss to a nuclear electrical
2 generating facility or its components, including the electrical
3 transmission lines or switching equipment used in direct connection
4 with such a facility, or (b) takes, steals and carries away, or
5 removes, alters, or otherwise renders unusable or unsafe the spent
6 or unspent nuclear fuel used or stored in a nuclear electrical
7 generating facility or nuclear storage facility.

8 (2) This section shall be construed to cover acts and
9 omissions of persons employed at such nuclear facilities, persons
10 otherwise rightfully upon the premises of such nuclear facilities,
11 and all other persons. This section does not apply to acts
12 or omissions carried out in accordance with official rules or
13 directives relating to plant operation or within the scope of
14 responsibility of judgment delegated to persons employed at such
15 nuclear facilities.

16 Sec. 8. Section 70-301, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 70-301 Any public power district, corporation, or
19 municipality that engages in the generation or transmission, or
20 both, of electric energy for sale to the public for light and power
21 purposes, the production, storage, or distribution of hydrogen
22 for use in fuel processes, or the production or distribution, or
23 both, of ethanol for use as fuel may acquire right-of-way over
24 and upon lands, except railroad right-of-way and depot grounds,
25 for the construction of pole lines or underground lines necessary

1 for the conduct of such business and for the placing of all
2 poles and constructions for the necessary adjuncts thereto, in
3 the same manner as railroad corporations may acquire right-of-way
4 for the construction of railroads. Such district, corporation, or
5 municipality shall give public notice of the proposed location of
6 such pole lines or underground lines with a voltage capacity of
7 thirty-four thousand five hundred volts or more which involves the
8 acquisition of rights or interests in more than ten separately
9 owned tracts by causing to be published a map showing the proposed
10 line route in a legal newspaper of general circulation within the
11 county where such line is to be constructed at least thirty days
12 before negotiating with any person, firm, or corporation to acquire
13 easements or property for such purposes and shall consider all
14 objections which may be filed to such location. After securing
15 approval from the Public Service Commission and having complied
16 with sections 70-305 to ~~70-310~~ 70-309 and 86-701 to 86-707, such
17 public power districts, corporations, and municipalities shall
18 have the right to condemn a right-of-way over and across railroad
19 right-of-way and depot grounds for the purpose of crossing the
20 same. The procedure to condemn property shall be exercised in the
21 manner set forth in sections 76-704 to 76-724.

22 Sec. 9. Original sections 28-520 and 28-521, Reissue
23 Revised Statutes of Nebraska, and section 70-301, Revised Statutes
24 Cumulative Supplement, 2008, are repealed.

25 Sec. 10. The following section is outright repealed:

1 Section 70-310, Reissue Revised Statutes of Nebraska.

2 Sec. 11. Since an emergency exists, this act takes effect

3 when passed and approved according to law.