

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 238**

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 (a) willfully and maliciously 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.