

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1008

FINAL READING

Introduced by Bostelman, 23.

Read first time January 16, 2018

Committee: Natural Resources

1 A BILL FOR AN ACT relating to law; to amend sections 37-613 and 57-904,
2 Reissue Revised Statutes of Nebraska, and sections 70-1015 and
3 81-15,160, Revised Statutes Cumulative Supplement, 2016; to change
4 amounts of certain liquidated damages under the Game Law; to change
5 the compensation of members of the Nebraska Oil and Gas Conservation
6 Commission; to authorize the withholding of certain competitive or
7 proprietary information relating to public power; to change
8 provisions relating to privately developed renewable energy
9 generation facilities; to change a date relating to grants for
10 certain scrap tire projects; to provide a duty for the Revisor of
11 Statutes; to provide operative dates; to repeal the original
12 sections; and to declare an emergency.

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

1 Section 1. Section 37-613, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 37-613 (1) Any person who sells, purchases, takes, or possesses
4 contrary to the Game Law any wildlife shall be liable to the State of
5 Nebraska for the damages caused thereby. Such damages shall be:

6 (a) Twenty-five ~~Fifteen~~ thousand dollars for each mountain sheep;

7 (b) Ten ~~Five~~ thousand dollars for each elk with a minimum of twelve
8 total points and three ~~one thousand five hundred~~ dollars for any other
9 elk;

10 (c) Ten ~~Five~~ thousand dollars for each whitetail deer with a minimum
11 of eight total points and an inside spread between beams of at least
12 sixteen ~~eighteen~~ inches, two ~~one thousand~~ dollars for any other antlered
13 whitetail deer, and five hundred ~~two hundred fifty~~ dollars for each
14 antlerless whitetail deer and whitetail doe deer;

15 (d) Ten ~~Five~~ thousand dollars for each mule deer with a minimum of
16 eight total points and an inside spread between beams of at least twenty-
17 two ~~twenty-four~~ inches and two ~~one thousand~~ dollars for any other mule
18 deer;

19 (e) Five thousand dollars for each antelope with the shortest horn
20 measuring a minimum of fourteen inches in length and one thousand dollars
21 for any other antelope;

22 (f) One thousand five hundred dollars for each bear or moose or each
23 individual animal of any threatened or endangered species of wildlife not
24 otherwise listed in this subsection;

25 (g) Five thousand ~~hundred~~ dollars for each mountain lion, lynx,
26 bobcat, river otter, or raw pelt thereof;

27 (h) Twenty-five dollars for each raccoon, opossum, skunk, or raw
28 pelt thereof;

29 (i) Five thousand dollars for each eagle;

30 (j) Five ~~One~~ hundred dollars for each wild turkey;

31 (k) Twenty-five dollars for each dove;

1 (1) Seventy-five dollars for each other game bird, other game
2 animal, other fur-bearing animal, raw pelt thereof, or nongame wildlife
3 in need of conservation as designated by the commission pursuant to
4 section 37-805, not otherwise listed in this subsection;

5 (m) Fifty dollars for each wild bird not otherwise listed in this
6 subsection;

7 (n) Seven hundred fifty dollars for each swan or paddlefish;

8 (o) Two hundred dollars for each master angler fish measuring more
9 than twelve inches in length;

10 (p) Fifty dollars for each game fish measuring more than twelve
11 inches in length not otherwise listed in this subsection;

12 (q) Twenty-five dollars for each other game fish; and

13 (r) Fifty dollars for any other species of game not otherwise listed
14 in this subsection.

15 (2) The commission shall adopt and promulgate rules and regulations
16 to provide for a list of master angler fish which are subject to this
17 section and to prescribe guidelines for measurements and point
18 determinations as required by this section. The commission may adopt a
19 scoring system which is uniformly recognized for this purpose.

20 (3) Such damages may be collected by the commission by civil action.
21 In every case of conviction for any of such offenses, the court or
22 magistrate before whom such conviction is obtained shall further enter
23 judgment in favor of the State of Nebraska and against the defendant for
24 liquidated damages in the amount set forth in this section and collect
25 such damages by execution or otherwise. Failure to obtain conviction on a
26 criminal charge shall not bar a separate civil action for such liquidated
27 damages. Damages collected pursuant to this section shall be remitted to
28 the secretary of the commission who shall remit them to the State
29 Treasurer for credit to the State Game Fund.

30 Sec. 2. Section 57-904, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 57-904 There is hereby established the Nebraska Oil and Gas
2 Conservation Commission. The commission shall consist of three members to
3 be appointed by the Governor. The director of the state geological survey
4 shall serve the commission in the capacity as its technical advisor, but
5 with no power to vote. Any two commissioners shall constitute a quorum
6 for all purposes. At least one member of the commission shall have had
7 experience in the production of oil or gas and shall have resided in the
8 State of Nebraska for at least one year. Each of the other members of the
9 commission shall have resided in the State of Nebraska for at least three
10 years. Initially, two of said members shall be appointed for a term of
11 two years each; and one shall be appointed for a term of four years. At
12 the expiration of the initial terms all members thereafter appointed
13 shall serve for a term of four years. The Governor may at any time remove
14 any appointed member of the commission for cause, and by appointment,
15 with the approval of the Legislature, shall fill any vacancy on the
16 commission.

17 The members of the commission shall receive as compensation for
18 their services not more than four hundred ~~the sum of fifty~~ dollars per
19 day for each day actually devoted to the business of the commission,
20 except ; ~~Provided,~~ that they shall not receive a sum in any one year in
21 excess of four ~~two~~ thousand dollars each. In addition, each member of the
22 commission shall be reimbursed for his or her actual and necessary
23 traveling and other expenses incurred in connection with the carrying out
24 of his or her duties as provided in sections 81-1174 to 81-1177 ~~for state~~
25 ~~employees.~~

26 Sec. 3. (1) Notwithstanding any other provision of law, the public
27 power industry as defined in section 70-601 and the Nebraska Power Review
28 Board may withhold competitive or proprietary information which would
29 give an advantage to business competitors. Competitive information is
30 information which a reasonable person, knowledgeable of the electric
31 utility industry, could conclude gives an advantage to business

1 competitors.

2 (2) Any request for records described in this section shall be
3 subject to the procedures for public record requests provided in sections
4 84-712 to 84-712.09.

5 Sec. 4. Section 70-1015, Revised Statutes Cumulative Supplement,
6 2016, is amended to read:

7 70-1015 (1) If any supplier violates Chapter 70, article 10, by
8 either (a) ~~(1)~~ commencing the construction or finalizing or attempting to
9 finalize the acquisition of any generation facilities, any transmission
10 lines, or any related facilities without first providing notice or
11 obtaining board approval, whichever is required, or (b) ~~(2)~~ serving or
12 attempting to serve at retail any customers located in Nebraska or any
13 wholesale customers in violation of section 70-1002.02, such
14 construction, acquisition, or service of such customers shall be enjoined
15 in an action brought in the name of the State of Nebraska until such
16 supplier has complied with Chapter 70, article 10.

17 (2) If the executive director of the board determines that a private
18 electric supplier commenced construction of a privately developed
19 renewable energy generation facility less than thirty days prior to
20 providing the notice required in subdivision (1)(a) of section
21 70-1014.02, the executive director shall send notice via certified mail
22 to the private electric supplier, informing it of the determination that
23 the private electric supplier is in violation of such subdivision and is
24 subject to a fine in the amount of five hundred dollars. The private
25 electric supplier shall have twenty days from the date on which the
26 notice is received in which to submit the notice described in such
27 subdivision and to pay the fine. Within ten days after the private
28 electric supplier submits a notice compliant with the provisions of
29 subsection (1) of section 70-1014.02 and payment of the fine, the
30 executive director of the board shall issue the written acknowledgment
31 described in subsection (2) of section 70-1014.02. If the private

1 electric supplier fails to submit a notice compliant with the provisions
2 of subsection (1) of section 70-1014.02 and pay the fine within twenty
3 days after the date on which the private electric supplier receives the
4 notice from the executive director of the board, the private electric
5 supplier shall immediately cease construction or operation of the
6 privately developed renewable energy generation facility.

7 (3) If the private electric supplier disputes that construction was
8 commenced less than thirty days prior to submitting the written notice
9 required by subdivision (1)(a) of section 70-1014.02, the private
10 electric supplier may request a hearing before the board. Such request
11 shall be submitted within twenty days after the private electric supplier
12 receives the notice sent by the executive director pursuant to subsection
13 (2) of this section. If the private electric supplier does not accept the
14 certified mail sent pursuant to such subsection, the executive director
15 shall send a second notice to the private electric supplier by first-
16 class United States mail. The private electric supplier may submit a
17 request for hearing within twenty days after the date on which the second
18 notice was mailed.

19 (4) Upon receipt of a request for hearing, the board shall set a
20 hearing date. Such hearing shall be held within sixty days after such
21 receipt. The board shall provide to the private electric supplier written
22 notice of the hearing at least twenty days prior to the date of the
23 hearing. The board or its hearing officer may grant continuances upon
24 good cause shown or upon the request of the private electric supplier.
25 Timely filing of a request for hearing by a private electric supplier
26 shall stay any further enforcement under this section until the board
27 issues an order pursuant to subsection (5) of this section or the request
28 for hearing is withdrawn.

29 (5) The board shall issue a written decision within sixty days after
30 conclusion of the hearing. All costs of the hearing shall be paid by the
31 private electric supplier if (a) the board determines that the private

1 electric supplier commenced construction of the privately developed
2 renewable energy generation facility less than thirty days prior to
3 submitting the written notice required pursuant to subsection (1) of
4 section 70-1014.02 or (b) the private electric supplier withdraws its
5 request for hearing prior to the board issuing its decision.

6 (6) A private electric supplier which the board finds to be in
7 violation of the requirements of subsection (1) of section 70-1014.02
8 shall either (a) pay the fine described in this section and submit a
9 notice compliant with the provisions of subsection (1) of section
10 70-1014.02 or (b) immediately cease construction or operation of the
11 privately developed renewable energy generation facility.

12 Sec. 5. Section 81-15,160, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is
15 created. The department shall deduct from the fund amounts sufficient to
16 reimburse itself for its costs of administration of the fund. The fund
17 shall be administered by the Department of Environmental Quality. The
18 fund shall consist of proceeds from the fees imposed pursuant to the
19 Waste Reduction and Recycling Incentive Act.

20 (2) The fund may be used for purposes which include, but are not
21 limited to:

22 (a) Technical and financial assistance to political subdivisions for
23 creation of recycling systems and for modification of present recycling
24 systems;

25 (b) Recycling and waste reduction projects, including public
26 education, planning, and technical assistance;

27 (c) Market development for recyclable materials separated by
28 generators, including public education, planning, and technical
29 assistance;

30 (d) Capital assistance for establishing private and public
31 intermediate processing facilities for recyclable materials and

1 facilities using recyclable materials in new products;

2 (e) Programs which develop and implement composting of yard waste
3 and composting with sewage sludge;

4 (f) Technical assistance for waste reduction and waste exchange for
5 waste generators;

6 (g) Programs to assist communities and counties to develop and
7 implement household hazardous waste management programs;

8 (h) Capital assistance for establishing private and public
9 facilities to manufacture combustible waste products and to incinerate
10 combustible waste to generate and recover energy resources, except that
11 no disbursements shall be made under this section for scrap tire
12 processing related to tire-derived fuel; and

13 (i) Grants for reimbursement of costs to cities of the second class,
14 villages, and counties of five thousand or fewer population for the
15 deconstruction of abandoned buildings. Eligible deconstruction costs will
16 be related to the recovery and processing of recyclable or reusable
17 material from the abandoned buildings.

18 (3) Grants up to one million five hundred thousand dollars annually
19 shall be available until June 30, 2024 ~~2019~~, for new scrap tire projects
20 only, if acceptable scrap tire project applications are received.
21 Eligible categories of disbursement under section 81-15,161 may include,
22 but are not limited to:

23 (a) Reimbursement for the purchase of crumb rubber generated and
24 used in Nebraska, with disbursements not to exceed fifty percent of the
25 cost of the crumb rubber;

26 (b) Reimbursement for the purchase of tire-derived product which
27 utilizes a minimum of twenty-five percent recycled tire content, with
28 disbursements not to exceed twenty-five percent of the product's retail
29 cost;

30 (c) Participation in the capital costs of building, equipment, and
31 other capital improvement needs or startup costs for scrap tire

1 processing or manufacturing of tire-derived product, with disbursements
2 not to exceed fifty percent of such costs or five hundred thousand
3 dollars, whichever is less;

4 (d) Participation in the capital costs of building, equipment, or
5 other startup costs needed to establish collection sites or to collect
6 and transport scrap tires, with disbursements not to exceed fifty percent
7 of such costs;

8 (e) Cost-sharing for the manufacturing of tire-derived product, with
9 disbursements not to exceed twenty dollars per ton or two hundred fifty
10 thousand dollars, whichever is less, to any person annually;

11 (f) Cost-sharing for the processing of scrap tires, with
12 disbursements not to exceed twenty dollars per ton or two hundred fifty
13 thousand dollars, whichever is less, to any person annually;

14 (g) Cost-sharing for the use of scrap tires for civil engineering
15 applications for specified projects, with disbursements not to exceed
16 twenty dollars per ton or two hundred fifty thousand dollars, whichever
17 is less, to any person annually;

18 (h) Disbursement to a political subdivision up to one hundred
19 percent of costs incurred in cleaning up scrap tire collection and
20 disposal sites; and

21 (i) Costs related to the study provided in section 81-15,159.01.

22 The director shall give preference to projects which utilize scrap
23 tires generated and used in Nebraska.

24 (4) Priority for grants made under section 81-15,161 shall be given
25 to grant proposals demonstrating a formal public/private partnership
26 except for grants awarded from fees collected under subsection (6) of
27 section 13-2042.

28 (5) Grants awarded from fees collected under subsection (6) of
29 section 13-2042 may be renewed for up to a five-year grant period. Such
30 applications shall include an updated integrated solid waste management
31 plan pursuant to section 13-2032. Annual disbursements are subject to

1 available funds and the grantee meeting established grant conditions.
2 Priority for such grants shall be given to grant proposals showing
3 regional participation and programs which address the first integrated
4 solid waste management hierarchy as stated in section 13-2018 which shall
5 include toxicity reduction. Disbursements for any one year shall not
6 exceed fifty percent of the total fees collected after rebates under
7 subsection (6) of section 13-2042 during that year.

8 (6) Any person who stores waste tires in violation of section
9 13-2033, which storage is the subject of abatement or cleanup, shall be
10 liable to the State of Nebraska for the reimbursement of expenses of such
11 abatement or cleanup paid by the Department of Environmental Quality.

12 (7) The Department of Environmental Quality may receive gifts,
13 bequests, and any other contributions for deposit in the Waste Reduction
14 and Recycling Incentive Fund. Transfers may be made from the fund to the
15 General Fund at the direction of the Legislature. Any money in the Waste
16 Reduction and Recycling Incentive Fund available for investment shall be
17 invested by the state investment officer pursuant to the Nebraska Capital
18 Expansion Act and the Nebraska State Funds Investment Act.

19 Sec. 6. The Revisor of Statutes shall assign section 3 of this act
20 to Chapter 70, article 6.

21 Sec. 7. Sections 1, 2, 5, and 9 of this act become operative three
22 calendar months after the adjournment of this legislative session. The
23 other sections of this act become operative on their effective date.

24 Sec. 8. Original section 70-1015, Revised Statutes Cumulative
25 Supplement, 2016, is repealed.

26 Sec. 9. Original sections 37-613 and 57-904, Reissue Revised
27 Statutes of Nebraska, and section 81-15,160, Revised Statutes Cumulative
28 Supplement, 2016, are repealed.

29 Sec. 10. Since an emergency exists, this act takes effect when
30 passed and approved according to law.