

LEGISLATIVE BILL 624

Approved by the Governor March 10, 2008

Introduced by Pirsch, 4; Fulton, 29.

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

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

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

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

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

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

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

(2)(a) Except as otherwise provided in subsection (3) of this section, any person who violates subsection (1) of this section shall be guilty of a Class I misdemeanor.

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

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

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

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

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

(b) The court shall, as part of the judgment of conviction under subdivision (a) of this subsection, order that the operator's license of such person be revoked or impounded for a period of two years and order the person not to drive any motor vehicle for any purpose in the State of Nebraska for a like period. The revocation or impoundment shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked.

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

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

~~(6)(a) (5)(a) Any person who operates a vessel as defined in section~~

37-1203 to flee in such vessel in an effort to avoid arrest for the violation of any statute punishable as a felony shall be guilty of felony operation of a vessel to avoid arrest.

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

~~(7)~~ (6) An order of the court under subsection (4) or (5) of this section prohibiting operation of a vehicle or vessel and revoking the operator's license shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

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