

LEGISLATIVE BILL 238

Approved by the Governor May 26, 2009

Introduced by Lathrop, 12.

FOR AN ACT relating to public power suppliers; to amend sections 28-520 and 28-521, Reissue Revised Statutes of Nebraska, and section 70-301, Revised Statutes Cumulative Supplement, 2008; to provide, change, and repeal penalties relating to criminal trespass and interference with electric poles or wires; to adopt the Public Power Infrastructure Protection Act; to harmonize provisions; to repeal the original sections; to outright repeal section 70-310, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

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

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

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

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

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

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

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

28-521 (1) A person commits second degree criminal trespass if, knowing that he or she is not licensed or privileged to do so, he or she enters or remains in any place as to which notice against trespass is given by:

(a) Actual communication to the actor; or

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

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

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

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

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

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

Sec. 5. For purposes of the Public Power Infrastructure Protection Act, public power supplier means a public power district organized under Chapter 70, article 6, a public power and irrigation district, a municipality, a registered group of municipalities, an electric cooperative, an electric membership association, a joint entity formed under the Interlocal Cooperation Act, a joint public agency formed under the Joint Public Agency Act, an agency formed under the Municipal Cooperative Financing Act, or any other governmental entity providing electric service.

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

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

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

(b) Any facility or electric wire owned by a public power supplier that is used for the purpose of conducting, transforming, transmitting, or

distributing electricity or any pole, bracket, insulator, or other appliance or apparatus owned by a public power supplier that supports or carries any electric wire owned by a public power supplier; or

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

Sec. 7. (1) A person shall be guilty of a Class II felony if he or she willfully and maliciously (a) destroys or causes or attempts to cause damage or loss to a nuclear electrical generating facility or its components, including the electrical transmission lines or switching equipment used in direct connection with such a facility, or (b) takes, steals and carries away, or removes, alters, or otherwise renders unusable or unsafe the spent or unspent nuclear fuel used or stored in a nuclear electrical generating facility or nuclear storage facility.

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

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

70-301 Any public power district, corporation, or municipality that engages in the generation or transmission, or both, of electric energy for sale to the public for light and power purposes, the production, storage, or distribution of hydrogen for use in fuel processes, or the production or distribution, or both, of ethanol for use as fuel may acquire right-of-way over and upon lands, except railroad right-of-way and depot grounds, for the construction of pole lines or underground lines necessary for the conduct of such business and for the placing of all poles and constructions for the necessary adjuncts thereto, in the same manner as railroad corporations may acquire right-of-way for the construction of railroads. Such district, corporation, or municipality shall give public notice of the proposed location of such pole lines or underground lines with a voltage capacity of thirty-four thousand five hundred volts or more which involves the acquisition of rights or interests in more than ten separately owned tracts by causing to be published a map showing the proposed line route in a legal newspaper of general circulation within the county where such line is to be constructed at least thirty days before negotiating with any person, firm, or corporation to acquire easements or property for such purposes and shall consider all objections which may be filed to such location. After securing approval from the Public Service Commission and having complied with sections 70-305 to ~~70-310~~ 70-309 and 86-701 to 86-707, such public power districts, corporations, and municipalities shall have the right to condemn a right-of-way over and across railroad right-of-way and depot grounds for the purpose of crossing the same. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

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

Sec. 10. The following section is outright repealed: Section 70-310, Reissue Revised Statutes of Nebraska.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.