

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 593**

Introduced by Hughes, 44.

Read first time January 18, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and punishments; to amend sections
- 2 28-101, 28-111, 28-522, and 54-617, Reissue Revised Statutes of
- 3 Nebraska; to create the offense of criminal trespass to vehicles; to
- 4 provide a penalty and an affirmative defense; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 28-101 Sections 28-101 to 28-1357, ~~28-1418.01, 28-1429.03,~~ and  
4 28-1601 to 28-1603 and section 3 of this act shall be known and may be  
5 cited as the Nebraska Criminal Code.

6 Sec. 2. Section 28-111, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 28-111 Any person who commits one or more of the following criminal  
9 offenses against a person or a person's property because of the person's  
10 race, color, religion, ancestry, national origin, gender, sexual  
11 orientation, age, or disability or because of the person's association  
12 with a person of a certain race, color, religion, ancestry, national  
13 origin, gender, sexual orientation, age, or disability shall be punished  
14 by the imposition of the next higher penalty classification than the  
15 penalty classification prescribed for the criminal offense, unless such  
16 criminal offense is already punishable as a Class IB felony or higher  
17 classification: Manslaughter, section 28-305; assault in the first  
18 degree, section 28-308; assault in the second degree, section 28-309;  
19 assault in the third degree, section 28-310; terroristic threats, section  
20 28-311.01; stalking, section 28-311.03; kidnapping, section 28-313; false  
21 imprisonment in the first degree, section 28-314; false imprisonment in  
22 the second degree, section 28-315; sexual assault in the first degree,  
23 section 28-319; sexual assault in the second or third degree, section  
24 28-320; sexual assault of a child, sections 28-319.01 and 28-320.01;  
25 arson in the first degree, section 28-502; arson in the second degree,  
26 section 28-503; arson in the third degree, section 28-504; criminal  
27 mischief, section 28-519; unauthorized application of graffiti, section  
28 28-524; criminal trespass in the first degree, section 28-520; ~~or~~  
29 criminal trespass in the second degree, section 28-521; or criminal  
30 trespass to a vehicle under section 3 of this act.

31 Sec. 3. (1) A person commits criminal trespass to a vehicle if he

1 or she enters or remains in any vehicle or part thereof, knowing that he  
2 or she is not licensed or privileged to do so.

3 (2) Criminal trespass to a vehicle is a Class III misdemeanor for a  
4 first or second conviction and a Class I misdemeanor for a third or  
5 subsequent conviction.

6 (3) For purposes of this section, vehicle includes any vehicle,  
7 aircraft, watercraft, or farm implement.

8 Sec. 4. Section 28-522, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-522 It is an affirmative defense to prosecution under sections  
11 28-520 and 28-521 and section 3 of this act that:

12 (1) A building or occupied structure involved in an offense under  
13 section 28-520 or a vehicle involved in an offense under section 3 of  
14 this act was abandoned; or

15 (2) The premises or vehicle was ~~were~~ at the time open to members of  
16 the public and the actor complied with all lawful conditions imposed on  
17 access to or remaining in the premises or vehicle; or

18 (3) The actor reasonably believed that the owner of the premises or  
19 vehicle or other person empowered to license access thereto would have  
20 licensed him to enter or remain; or

21 (4) The actor was in the process of navigating or attempting to  
22 navigate with a nonpowered vessel any stream or river in this state and  
23 found it necessary to portage or otherwise transport the vessel around  
24 any fence or obstructions in such stream or river.

25 (5) For purposes of this section, vehicle includes any vehicle,  
26 aircraft, watercraft, or farm implement.

27 Sec. 5. Section 54-617, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 54-617 For purposes of sections 54-617 to 54-624:

30 (1) Animal control authority means an entity authorized to enforce  
31 the animal control laws of a county, city, or village or this state and

1 includes any local law enforcement agency or other agency designated by a  
2 county, city, or village to enforce the animal control laws of such  
3 county, city, or village;

4 (2) Animal control officer means any individual employed, appointed,  
5 or authorized by an animal control authority for the purpose of aiding in  
6 the enforcement of sections 54-617 to 54-624 or any other law or  
7 ordinance relating to the licensure of animals, control of animals, or  
8 seizure and impoundment of animals and includes any state or local law  
9 enforcement officer or other employee whose duties in whole or in part  
10 include assignments that involve the seizure and impoundment of any  
11 animal;

12 (3)(a) Dangerous dog means a dog that, according to the records of  
13 an animal control authority: (i) Has killed a human being; (ii) has  
14 inflicted injury on a human being that requires medical treatment; (iii)  
15 has killed a domestic animal without provocation; or (iv) has been  
16 previously determined to be a potentially dangerous dog by an animal  
17 control authority, the owner has received notice from an animal control  
18 authority or an animal control officer of such determination, and the dog  
19 inflicts an injury on a human being that does not require medical  
20 treatment, injures a domestic animal, or threatens the safety of humans  
21 or domestic animals.

22 (b)(i) A dog shall not be defined as a dangerous dog under  
23 subdivision (3)(a)(ii) of this section, and the owner shall not be guilty  
24 under section 54-622.01, if the individual was tormenting, abusing, or  
25 assaulting the dog at the time of the injury or has, in the past, been  
26 observed or reported to have tormented, abused, or assaulted the dog.

27 (ii) A dog shall not be defined as a dangerous dog under subdivision  
28 (3)(a)(iv) of this section, and the owner shall not be guilty under  
29 section 54-622.01, if the injury, damage, or threat was sustained by an  
30 individual who, at the time, was committing a willful trespass as defined  
31 in section 20-203, 28-520, ~~or 28-521~~, or section 3 of this act, was

1 committing any other tort upon the property of the owner of the dog, was  
2 tormenting, abusing, or assaulting the dog, or has, in the past, been  
3 observed or reported to have tormented, abused, or assaulted the dog, or  
4 was committing or attempting to commit a crime.

5 (iii) A dog shall not be defined as a dangerous dog under  
6 subdivision (3)(a) of this section if the dog is a police animal as  
7 defined in section 28-1008;

8 (4) Domestic animal means a cat, a dog, or livestock. Livestock  
9 includes buffalo, deer, antelope, fowl, and any other animal in any zoo,  
10 wildlife park, refuge, wildlife area, or nature center intended to be on  
11 exhibit;

12 (5) Medical treatment means treatment administered by a physician or  
13 other licensed health care professional that results in sutures or  
14 surgery or treatment for one or more broken bones;

15 (6) Owner means any person, firm, corporation, organization,  
16 political subdivision, or department possessing, harboring, keeping, or  
17 having control or custody of a dog; and

18 (7) Potentially dangerous dog means (a) any dog that when unprovoked  
19 (i) inflicts an injury on a human being that does not require medical  
20 treatment, (ii) injures a domestic animal, or (iii) chases or approaches  
21 a person upon streets, sidewalks, or any public grounds in a menacing  
22 fashion or apparent attitude of attack or (b) any specific dog with a  
23 known propensity, tendency, or disposition to attack when unprovoked, to  
24 cause injury, or to threaten the safety of humans or domestic animals.

25 Sec. 6. Original sections 28-101, 28-111, 28-522, and 54-617,  
26 Reissue Revised Statutes of Nebraska, are repealed.