

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 190

Introduced by Redfield, 12; Friend, 10; Mossey, 3; Quandahl, 31

Read first time January 10, 2003

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 28-905, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to operating a motor vehicle to avoid
4 arrest; to change penalty provisions; to harmonize
5 provisions; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-905, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-905. (1) Any person who operates any motor vehicle to
4 flee in such vehicle in an effort to avoid arrest or citation ~~for~~
5 ~~the violation of any law of the State of Nebraska constituting a~~
6 ~~misdemeanor, infraction, traffic infraction, or any city or village~~
7 ~~ordinance, except nonmoving traffic violations,~~ commits the offense
8 of ~~misdemeanor~~ operation of a motor vehicle to avoid arrest.

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

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

16 (a) The person committing the offense has previously been
17 convicted under this section;

18 (b) The flight to avoid arrest results in the death of or
19 injury to any person; or

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

22 (4) (a) The court shall, as part of the judgment of
23 conviction under subsection (3) of this section, order such person
24 not to operate any motor vehicle for a period of two years from (i)
25 the date of his or her release from imprisonment if the sentence
26 imposed includes imprisonment or (ii) the date of satisfaction of
27 the fine if the sentence imposed includes only a fine and no
28 imprisonment.

1 **(b) The court may, as part of the judgment of conviction**
2 **under subsection (2) of this section, order such person not to**
3 **operate a motor vehicle for a period of not more than one year from**
4 **(i) the date of his or her release from imprisonment if the**
5 **sentence imposed includes imprisonment or (ii) the date of**
6 **satisfaction of the fine if the sentence imposed includes only a**
7 **fine and no imprisonment. Any person who operates any motor**
8 **vehicle to flee in such vehicle in an effort to avoid arrest for**
9 **the violation of any law of the State of Nebraska constituting a**
10 **felony commits the offense of felony operation of a motor vehicle**
11 **to avoid arrest.**

12 ~~(3) Operating a motor vehicle to avoid arrest under~~
13 ~~subsection (1) of this section is a Class I misdemeanor and the~~
14 ~~court shall, as part of the judgment of conviction, order such~~
15 ~~person not to operate any motor vehicle for any purpose for a~~
16 ~~period of two years.~~

17 ~~(4) Operating a motor vehicle to avoid arrest under~~
18 ~~subsection (2) of this section is a Class IV felony.~~

19 ~~(5) The court may, as a part of the judgment of~~
20 ~~conviction under this section and subject to the mandatory~~
21 ~~provision of subsection (3) of this section, order such person not~~
22 ~~to operate any motor vehicle for any purpose for a period of up to~~
23 ~~one year from the date of his or her release from imprisonment, or~~
24 ~~in the case of a fine only, for a period of one year from the date~~
25 ~~of satisfaction of the fine.~~

26 ~~(6)(a)~~ (5)(a) Any person who operates a vessel as defined
27 in section 37-1203 to flee in such vessel in an effort to avoid
28 arrest or citation for the violation of any statute punishable as a

1 misdemeanor or any city or village ordinance shall be guilty of
2 misdemeanor operation of a vessel to avoid arrest.

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

8 ~~(7)~~(6) (a) Any person who operates a vessel as defined in
9 section 37-1203 to flee in such vessel in an effort to avoid arrest
10 for the violation of any statute punishable as a felony shall be
11 guilty of felony operation of a vessel to avoid arrest.

12 (b) Any person violating subdivision (a) of this
13 subsection shall be guilty of a Class IV felony, and upon
14 conviction thereof the court may, as part of the judgment of
15 conviction and subject to the mandatory provision of subdivision
16 ~~(6)~~(5) (b) of this section, order such person not to operate any
17 vessel for any purpose for a period of up to two years from (i) the
18 date of his or her release from imprisonment if the sentence
19 imposed includes imprisonment or (ii) the date of satisfaction of
20 the fine if the sentence imposed includes only a fine and no
21 imprisonment.

22 Sec. 2. Original section 28-905, Reissue Revised
23 Statutes of Nebraska, is repealed.