

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 345

Introduced by Brown, 6

Read first time January 11, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections
2 28-521 and 28-523, Reissue Revised Statutes of Nebraska;
3 to change provisions relating to criminal trespass and
4 littering; to provide penalties; and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-521, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-521. (1) A person commits second degree criminal
4 trespass if, knowing that he or she is not licensed or privileged
5 to do so, he or she enters or remains in any place as to which
6 notice against trespass is given by:

7 (a) Actual communication to the actor; ~~or~~

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

10 (c) Fencing or other enclosure manifestly designed to
11 exclude intruders.

12 (2) Second degree criminal trespass is a Class III
13 misdemeanor, except as provided for in subsection (3) or (4) of
14 this section.

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

19 (4) Second degree criminal trespass is a Class II
20 misdemeanor if the offender enters or remains at the place of
21 business of a nonprofit organization that holds a certificate under
22 section 501 of the Internal Revenue Code as defined in section
23 49-801.01 and conducts an ongoing business enterprise that sells
24 clothing and household goods to the general public.

25 Sec. 2. Section 28-523, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 28-523. (1) Any person who deposits, throws, discards,
28 or otherwise disposes of any litter on any public or private

1 property or in any waters commits the offense of littering unless:

2 (a) Such property is an area designated by law for the
3 disposal of such material and such person is authorized by the
4 proper public authority to so use such property; or

5 (b) The litter is placed in a receptacle or container
6 installed on such property for such purpose.

7 (2) The word litter as used in this section ~~shall mean~~
8 means all waste material susceptible of being dropped, deposited,
9 discarded, or otherwise disposed of by any person upon any property
10 in the state but does not include wastes of primary processes of
11 farming or manufacturing. Waste material as used in this
12 subsection ~~shall mean~~ means any material appearing in a place or in
13 a context not associated with that material's function or origin.

14 (3) Whenever litter is thrown, deposited, dropped, or
15 dumped from any motor vehicle or watercraft in violation of this
16 section, the operator of such motor vehicle or watercraft commits
17 the offense of littering.

18 (4) A person who commits the offense of littering ~~shall~~
19 be is guilty of a Class III misdemeanor. A person convicted of the
20 offense of littering for the second time ~~shall be~~ is guilty of a
21 Class II misdemeanor. A person convicted of the offense of
22 littering for the third or a subsequent time ~~shall be~~ is guilty of
23 a Class I misdemeanor.

24 (5) A person who commits the offense of littering on or
25 near a nonprofit organization that holds a certificate under
26 section 501 of the Internal Revenue Code as defined in section
27 49-801.01 and conducts an ongoing business enterprise that sells
28 clothing and household goods to the general public shall be

1 punished by the next higher penalty classification than that
2 prescribed for a first or subsequent violation in subsection (4) of
3 this section, but in no event shall a person be punished by a
4 penalty greater than a Class IV felony.

5 Sec. 3. Original sections 28-521 and 28-523, Reissue
6 Revised Statutes of Nebraska, are repealed.