

## LEGISLATIVE BILL 76

Approved by the Governor May 8, 1981

Introduced by DeCamp, 40

AN ACT relating to motor vehicles; to amend sections 60-408 and 60-440, Reissue Revised Statutes of Nebraska, 1943, and section 28-905, Revised Statutes Supplement, 1980; to change penalties for operating a vehicle to avoid arrest; to change provisions relating to operator's licenses; to provide for republication of rules; and to repeal the original sections.  
Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-905, Revised Statutes Supplement, 1980, be amended to read as follows:

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 III ~~I~~ misdemeanor and 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.

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

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

Sec. 2. That section 60-408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-408. The county treasurer is hereby authorized to employ such additional clerical help as may be necessary to assist him or her in the performance of the ministerial duties required of him or her under this act and, for such additional expense, shall be reimbursed as is hereinafter set out in section 60-409. All of such fees so collected shall be allocated and credited to the several funds as provided in section 60-409. The director may, in his or her discretion, appoint one or more examining officers who shall personally examine all applicants who do not possess and who cannot present an operator's license and whose licenses have been revoked, canceled, or suspended in accordance with rules of the director to ascertain such person's ability to operate a motor vehicle properly and safely. Such examination shall, in addition to the other requisites of this act, include (1) an inquiry into the physical fitness of the applicant to operate a motor vehicle, (2) an inquiry into the applicant's ability to drive and maneuver a motor vehicle, and (3) an inquiry touching upon the applicant's knowledge of the motor vehicle laws of this state, which shall include sufficient questions to indicate familiarity with the provisions thereof, and (4) an inquiry into the applicant's knowledge of the laws for operating a motor vehicle to avoid arrest commencing with the first regularly scheduled revision of the examination after the effective date of this act; Provided, if an applicant is denied or refused a certificate for license by the examiners, such applicant shall have the right to an immediate appeal to the director from the decision of such examiners; and it shall be the duty of the director forthwith to pass upon the appeal and to render a prompt finding, to be made in any event not later than ten days from the receipt of the appeal by the director.

Sec. 3. Each law enforcement agency within the State of Nebraska shall adopt and implement a written policy regarding the pursuit of motor vehicles. Such policy shall contain at least the following elements:

(1) Standards which describe when a pursuit may be initiated, taking into consideration the nature and severity of the offense involved;

(2) Standards which describe when a pursuit is to be discontinued, giving special attention to (a) the degree of danger presented to the general public and the pursuing officer and (b) the probability of later apprehension of the subject based upon his or her

identification;

(3) Procedures governing the operation of pursuits including, but not limited to, the number and types of vehicles which may be used, the method of operation of such vehicles, and the exercise of supervision during pursuits;

(4) Procedures governing pursuits which include other law enforcement agencies or which extend into the jurisdiction of other law enforcement agencies; and

(5) A system of continued planning and training of personnel regarding the proper handling of pursuits.

Sec. 4. That section 60-440, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-440. The director pursuant to law shall publish a synopsis or summary of the statutory driving rules of this state, together with such cautionary and advisory comments as may to him or her seem fit, and shall deliver a copy thereof without charge with each operator's license. Commencing with the first republication of the rules scheduled after the effective date of this act, such rules shall contain a summary of the state's laws for operating a motor vehicle to avoid arrest.

Sec. 5. That original sections 60-408 and 60-440, Reissue Revised Statutes of Nebraska, 1943, and section 28-905, Revised Statutes Supplement, 1980, are repealed.