

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 202

Introduced by Lowe, 37.

Read first time January 10, 2017

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-901, Reissue Revised Statutes of Nebraska; to create the offense
- 3 of obstructing government operations by refusal to submit to a
- 4 chemical test authorized by search warrant; to provide penalties;
- 5 and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-901 (1)(a) ~~(1)~~ A person commits the offense of obstructing
4 government operations if he or she intentionally obstructs, impairs, or
5 perverts the administration of law or other governmental functions by
6 force, violence, physical interference or obstacle, breach of official
7 duty, or any other unlawful act, except that this subsection ~~section~~ does
8 not apply to flight by a person charged with crime, refusal to submit to
9 arrest, failure to perform a legal duty other than an official duty, or
10 any other means of avoiding compliance with law without affirmative
11 interference with governmental functions.

12 (b) ~~(2)~~ Obstructing government operations is a Class I misdemeanor.

13 (2)(a) A person commits the offense of obstructing government
14 operations by refusal to submit to a chemical test authorized by search
15 warrant if he or she intentionally and willfully refuses to comply with a
16 search warrant authorized pursuant to sections 29-812 to 29-821 for a
17 sample of such person's blood or urine to determine the presence and
18 concentration of alcohol or drugs.

19 (b) Obstructing government operations by refusal to submit to a
20 chemical test authorized by search warrant is (i) a Class I misdemeanor
21 for the first offense and, upon conviction, the court shall, as part of
22 the judgment of conviction, order that the operator's license of such
23 person be revoked for a period of eighteen months from the date ordered
24 by the court and (ii) a Class IV felony for a second or subsequent
25 offense and, upon conviction, the court shall, as part of the judgment of
26 conviction, order that the operator's license of such person be revoked
27 for a period of three years. The court shall also order such person to
28 obtain an ignition interlock permit in order to operate a motor vehicle
29 with an ignition interlock device pursuant to section 60-6,211.05 for the
30 entire period of revocation ordered pursuant to this subsection.
31 Sufficient evidence shall be submitted to the Department of Motor

1 Vehicles that an ignition interlock device has been installed. Such
2 revocation shall be administered upon sentencing, upon final judgement of
3 any appeal or review, or upon the date that any probation is revoked.

4 (c) Obstructing government operations by refusal to submit to a
5 chemical test authorized by search warrant shall be treated as a separate
6 and distinct offense from any other offense arising out of acts alleged
7 to have been committed while the person was in violation of this
8 subsection.

9 Sec. 2. Original section 28-901, Reissue Revised Statutes of
10 Nebraska, is repealed.