

Amendment No. 525

Assembly Amendment to Assembly Bill No. 161

(BDR 15-729)

Proposed by: Assembly Committee on Judiciary

Amendment Box: Replaces Amendment No. 325.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MNM/BAW



Date: 4/25/2011

A.B. No. 161—Revises provisions governing the crime of trespassing.
(BDR 15-729)



ASSEMBLY BILL NO. 161—ASSEMBLYMAN ANDERSON

FEBRUARY 16, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the crime of trespassing.
(BDR 15-729)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising provisions governing the crime of trespassing;
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, ~~unless a greater penalty is provided by NRS 200.603, which governs the crime of peering, peeping or spying through an opening of the dwelling of another person,~~ a person who commits the crime of trespassing is guilty of a misdemeanor. (NRS 207.200) Existing law further provides that, except when a person solicits a child for prostitution, a person who engages in prostitution or solicitation for prostitution is also guilty of a misdemeanor. (NRS 201.354) A person who is convicted of a misdemeanor generally must be punished by: (1) imprisonment in the county jail for not more than 6 months; (2) a fine of not more than \$1,000; or (3) both imprisonment and a fine. Alternatively, instead of all or a portion of such punishment, a person may be sentenced to perform community service. (NRS 193.150)

This bill ~~requires that unless a greater penalty is provided by NRS 200.603,~~ provides that if a person ~~(who)~~ is convicted of trespassing on the premises of a licensed gaming establishment ~~{for the third or subsequent time within 5 years must be punished}, and the person has been previously convicted of three violations of engaging in or soliciting for prostitution within the immediately preceding 5 years, the court may suspend proceedings against the person under certain circumstances and place the person on probation upon terms and conditions that must include attendance and successful completion of a counseling or educational program or, if the person is dependent upon drugs, a program of treatment and rehabilitation. Before the person is assigned to any such program, he or she must agree to pay the costs associated with the program to the extent of his or her available financial resources. If the person violates any term or condition, the court may enter a judgment of conviction and punish the person~~ by: (1) a fine of \$1,000; ~~for~~ (2) ~~{a fine of \$1,000 and}~~ imprisonment in the county jail for not more than 6 months ~~{;}~~ ; or (3) both fine and imprisonment. A person may also be sentenced to perform community service instead of all or a portion of such punishment. If the person fulfills the terms and conditions, the court must discharge the person and dismiss the proceedings against him or her. This bill also specifies that such discharge and dismissal by the court is not a conviction for any purpose other than determining additional penalties imposed for second or subsequent convictions or the setting of bail. However, a person may be discharged by the court and have the proceedings dismissed only once under such provisions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 207.200 is hereby amended to read as follows:~~

~~207.200 1. Unless a greater penalty is provided pursuant to *subsection 2* or NRS 200.603, any person who, under circumstances not amounting to a burglary:~~

~~(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or~~

~~(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass;~~

~~is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections [2] 3 and [4.] 5.~~

~~2. Unless a greater penalty is provided pursuant to NRS 200.603, any person who has previously been convicted of two or more violations of subsection 1 by trespassing on the premises of a licensed gaming establishment and who commits a third or subsequent violation of subsection 1 within 5 years by trespassing on the premises of a licensed gaming establishment is guilty of a misdemeanor and shall be punished by:~~

~~(a) A fine of \$1,000; or~~

~~(b) A fine of \$1,000 and imprisonment in the county jail for not more than 6 months.~~

~~In lieu of all or a part of the punishment which may be imposed pursuant to this subsection, the person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.~~

~~3. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:~~

~~(a) If the land is used for agricultural purposes or for herding or grazing livestock, by painting with fluorescent orange paint:~~

~~(1) Not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material, at:~~

~~(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and~~

~~(II) Each corner of the land, upon or near the boundary; and~~

~~(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;~~

~~(b) If the land is not used in the manner specified in paragraph (a), by painting with fluorescent orange paint not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material, at:~~

~~(1) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 200 feet; and~~

~~(2) Each corner of the land, upon or near the boundary;~~

~~(c) Fencing the area; or~~

~~(d) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.~~

~~[3.] 4. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection [2] 3 without lawful business with the owner or occupant of the property.~~

~~[4.] 5. An entryman on land under the laws of the United States is an owner within the meaning of this section.~~

~~[5.] 6. As used in this section:~~

~~(a) "Fence" means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain-link or wire mesh fence. The term does not include a barrier made of barbed wire.~~

~~(b) "Guest" means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170.~~

~~(c) "Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169. (Deleted by amendment.)~~

~~Sec. 2. [NRS 207.205 is hereby amended to read as follows:~~

~~207.205 1. It is unlawful for any person to post such land within the meaning of subsection [2] 3 of NRS 207.200 unless the person has:~~

~~(a) Obtained written authorization from the owner or occupant of the land, or any building thereon, to do so unless the person is the owner or occupant;~~

~~(b) Placed the name and address of the owner or occupant on each sign.~~

~~2. Any person violating any of the provisions of subsection 1 is guilty of a misdemeanor. (Deleted by amendment.)~~

Sec. 2.5. Chapter 207 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who commits a violation of NRS 207.200 by trespassing on the premises of a licensed gaming establishment and who has previously been convicted of three violations of NRS 201.354 within the immediately preceding 5 years is guilty of a misdemeanor and shall be punished by:

(a) A fine of \$1,000;

(b) Imprisonment in the county jail for not more than 6 months; or

(c) Both fine and imprisonment.

➤ In lieu of all or a part of the punishment which may be imposed pursuant to this subsection, the person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

2. The court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place the person on probation upon terms and conditions that must include attendance and successful completion of a counseling or educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

3. Upon violation of a term or condition, the court may enter a judgment of conviction and punish the person as provided in subsection 1.

4. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him or her.

5. Except as otherwise provided in subsection 6, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The person may not be

held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the person for any purpose. Discharge and dismissal under this section may only occur once with respect to any person.

6. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

7. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

8. As used in this section, "licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

Sec. 3. The amendatory provisions of this act apply to offenses committed before October 1, 2011, for the purpose of determining whether a person is subject to the provisions of subsection ~~(2)~~ 1 of ~~NRS 207.200, as amended by~~ section ~~(1)~~ 2.5 of this act.