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(Reprinted with amendments adopted on April 21, 2015)

SECOND REPRINT

A.B. 356

ASSEMBLY BILL NO. 356—ASSEMBLYMEN FIORE, GARDNER,
DOOLING; DICKMAN, ELLISON, JONES AND SHELTON

MARCH 17, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain unlawful acts. (BDR 3-844)

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

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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 unlawful acts; prohibiting a person from engaging in certain acts against a business; prohibiting certain activities while engaged in picketing; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a person from committing certain acts with the intent to coerce or intimidate a business. **Section 3** of this bill prohibits a person from intentionally or recklessly destroying, marking or damaging the property or merchandise owned by or in the control of a business. **Section 4.5** of this bill prescribes certain civil remedies that may be available for a violation of **section 2** or **3**.

Section 9.7 of this bill repeals provisions of existing law which provide that it is unlawful, in the context of certain labor-related disputes, to engage in certain activities while picketing. (NRS 614.160) **Section 9.3** of this bill reenacts provisions of general applicability which prohibit certain activities while picketing, without regard to the purpose for which a person is engaged in picketing. **Section 9.3** provides that it is unlawful for a person, while picketing, to: (1) picket on private property without consent or a court order; (2) narrow, block, or otherwise obstruct the ingress or egress to public or private property or obstruct any public or private roadway so as to prevent the safe passage of vehicles; (3) knowingly threaten, assault or touch a person entering or leaving any public or private property, or to use language or words threatening to do immediate physical harm to a person or the property of a person or to incite fear of immediate physical harm to a person; or (4) knowingly spread, drop, throw or disperse certain sharp objects in the entrances to or exits from any public or private property. A violation of **section 9.3** is a misdemeanor, and a person may petition a court to enjoin ongoing activity that is a violation of that section. A person who files a petition to enjoin such activity is entitled to a rebuttable presumption of irreparable harm.



* A B 3 5 6 R 2 *

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.5, inclusive, of this act.

Sec. 2. *A person shall not damage, injure, harm, threaten or maliciously disrupt the lawful activities of any business or any employee or representative of that business with the intent to coerce or intimidate that business.*

Sec. 3. *A person shall not intentionally or recklessly destroy, mark or damage the property or merchandise owned by or in the control of any business.*

Sec. 4. *The provisions of sections 2 and 3 of this act are not intended to infringe upon or impede any lawful exercise of rights provided by the First Amendment to the United States Constitution, including, without limitation, lawful picketing conducted in accordance with the provisions of section 9.3 of this act.*

Sec. 4.5. 1. *A business or the owner of a business may bring a civil action against a person for an alleged violation of:*

(a) Section 2 of this act, and may recover:

(1) Statutory damages in the amount of \$2,500 or the amount of actual damages, whichever is greater; and

(2) Attorney's fees and costs incurred in the action.

(b) Section 3 of this act, and may recover:

(1) Actual damages; and

(2) Attorney's fees and costs incurred in the action.

2. *A business or the owner of a business aggrieved by a violation of section 2 or 3 of this act may petition a court of competent jurisdiction to enjoin any ongoing activity that is alleged to be a violation of section 2 or 3 of this act.*

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 9.3. Chapter 203 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *It is unlawful for any person:*

(a) To picket on private property without the written permission of the owner or unless the person obtains an order from a court or agency of competent jurisdiction authorizing such activity, except that an employee may enter or leave his or her



1 employer's property in the course of his or her employment or for
2 the purpose of receiving payment for services performed;

3 (b) To maintain any picket or picket line, individually or as
4 part of a group, in front of or across entrances to or exits from any
5 property if such picket or picket line narrows or blocks the
6 entrances or exits, or interferes with the ability of a person or
7 vehicle to enter or leave the property;

8 (c) Knowingly to threaten, assault or in any manner physically
9 touch the person, clothing or vehicle of any person attempting to
10 enter or leave any property, including, without limitation, any
11 employees, agents, contractors, representatives, guests, customers
12 or others doing or attempting to do business with the owner or
13 occupant of the property;

14 (d) Intentionally to operate a motor vehicle so as to delay,
15 impede or interfere with the ability of persons or vehicles to enter
16 or leave any property;

17 (e) To use language or words threatening to do immediate
18 physical harm to a person or the property of the person or
19 designed to incite fear of immediate physical harm in any person
20 attempting to enter or leave any property;

21 (f) Knowingly to spread, drop, throw or disperse nails, tacks,
22 staples, glass or other sharp objects in the entrances to or exits
23 from any property;

24 (g) Intentionally to obstruct the ingress or egress of any
25 property from any public or private place in such a manner as to
26 not leave a free passageway for persons and vehicles lawfully
27 seeking to enter or leave the public or private place; or

28 (h) Intentionally to obstruct any public or private roadway,
29 including, without limitation, intersections, so as to prevent the
30 safe passage of vehicles thereon or therethrough.

31 2. Each local government shall by ordinance adopt a
32 procedure by which it may grant a variance from the provisions of
33 paragraph (b) of subsection 1, except that the local government
34 shall not grant a variance:

35 (a) Specifically permitting the obstruction by picketing of any
36 public or private roadway or the ingress or egress of any public or
37 private place; or

38 (b) Permitting picketing if such activity would necessarily
39 involve or require the obstruction of any public or private roadway
40 or the ingress or egress of any public or private place.

41 3. A person who violates this section is guilty of a
42 misdemeanor.

43 4. A person aggrieved by a violation of this section may
44 petition a court of competent jurisdiction to enjoin any ongoing
45 activity that is alleged to be a violation of this section. A person



1 *who files a petition to enjoin any activity that is alleged to be a*
2 *violation of this section is entitled to a rebuttable presumption of*
3 *irreparable harm.*

4 *5. The provisions of subsections 3 and 4 do not preclude any*
5 *additional civil action or criminal prosecution based upon acts*
6 *which are otherwise prohibited by law.*

7 *6. Nothing in this section shall be deemed to alter, modify,*
8 *amend or conflict with any provision of federal law, including,*
9 *without limitation, the National Labor Relations Act, 29 U.S.C. §§*
10 *151 et seq., or the Labor Management Relations Act, 29 U.S.C. §§*
11 *401 et seq.*

12 *7. As used in this section, "picket" or "picketing" means the*
13 *stationing of a person or persons at any location or area for the*
14 *purpose of engaging in a demonstration or protest.*

15 **Sec. 9.5.** NRS 449.760 is hereby amended to read as follows:

16 449.760 1. Except as otherwise provided in this section, a
17 person shall not intentionally prevent another person from entering
18 or exiting the office of a physician, a health facility, a nonprofit
19 health facility, a public health center, a medical facility or a facility
20 for the dependent by physically:

21 (a) Detaining the other person; or

22 (b) Obstructing, impeding or hindering the other person's
23 movement.

24 2. The provisions of subsection 1 are inapplicable to:

25 (a) An officer, employee or agent of the physician, health
26 facility, nonprofit health facility, public health center, medical
27 facility or facility for the dependent; or

28 (b) A peace officer as defined in NRS 169.125,

29 ➤ while acting within the course and scope of his or her duties or
30 employment.

31 3. The provisions of subsection 1 do not prohibit a person from
32 maintaining a picket during a strike or work stoppage in compliance
33 with the provisions of ~~NRS 614.160,~~ **section 9.3 of this act** or
34 from engaging in any constitutionally protected exercise of free
35 speech.

36 4. A person who violates the provisions of subsection 1 is
37 guilty of a misdemeanor and shall be punished by a fine of not more
38 than \$1,000, or by imprisonment in the county jail for not more than
39 3 months, or by both fine and imprisonment.

40 5. As used in this section, the terms "health facility,"
41 "nonprofit health facility" and "public health center" have the
42 meanings ascribed to them in NRS 449.260.

43 **Sec. 9.7.** NRS 614.160 is hereby repealed.

44 **Sec. 10.** This act becomes effective upon passage and
45 approval.



TEXT OF REPEALED SECTION

614.160 Picketing: Unlawful acts; acceptable acts; local variance; penalty.

1. During the pendency of a strike, work stoppage or other dispute, it is unlawful for any person:

(a) To picket on private property without the written permission of the owner or pursuant to an order from a federal court or agency of competent jurisdiction, even if the private property is open to the public as invitees for business, except that an employee may enter or leave his or her employer's property in the course of his or her employment or for the purpose of receiving payment for services performed;

(b) To maintain any picket or picket line, individually or as part of a group, in front of or across entrances to or exits from any property, except that the following numbers of pickets may be maintained across entrances or exits if the pickets do not narrow or block the entrances or exits or delay, impede or interfere with the ability of persons or vehicles to enter or leave the property:

(1) Two pickets at pedestrian entrances and exits;

(2) Two pickets at driveway entrances and exits 20 feet or less in width; and

(3) Six pickets at driveway entrances and exits more than 20 feet in width;

(c) Knowingly to threaten, molest, assault, or in any manner physically touch the person, clothing or vehicle of any person attempting to enter or leave any property, including employees, agents, contractors, representatives, guests, customers or others doing or attempting to do business with the owner or occupant;

(d) Intentionally to operate a motor vehicle so as to delay, impede or interfere with the ability of persons or vehicles to enter or leave any property;

(e) To use language or words threatening to do harm to a person or the property of the person or designed to incite fear in any person attempting to enter or leave any property; or

(f) Knowingly to spread, drop, throw or otherwise knowingly to disperse nails, tacks, staples, glass or other objects in the entrances to or exits from any property.

2. Any persons participating in a strike, work stoppage or other dispute may picket on the public sidewalks or other public areas between entrances and exits to any property if the pickets maintain a



distance of 30 feet from each person or group of two persons to the next person or group and no more than two persons walk abreast.

3. Persons who picket any property may congregate in groups of 10 or fewer to confer with their captain at reasonable times or to obtain food and drink at reasonable times, but shall not so congregate within 30 feet of any entrance or exit.

4. Each county shall adopt by ordinance a procedure by which it may grant a variance from the provisions of paragraph (b) of subsection 1.

5. Any person who violates the prohibitions of this section or of a variance granted pursuant to subsection 4 is guilty of a misdemeanor. This section does not preclude civil action or additional criminal prosecution based upon acts which are prohibited by this section.

