

Amendment No. 524

Assembly Amendment to Assembly Bill No. 356 (BDR 53-844)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: Yes Title: Yes 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

JMM/MSN



Date: 4/16/2015

A.B. No. 356—Revises provisions governing labor organizations. (BDR 53-844)



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

MARCH 17, 2015

Referred to Committee on Commerce and Labor

SUMMARY—~~Revises provisions governing labor organizations.~~ Prohibits certain unlawful acts. (BDR ~~(53-844)~~ 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 ~~labor organizations;~~ unlawful acts; prohibiting a ~~labor organization;~~ 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:

~~Existing law protects employees from compulsory membership in a labor organization. (NRS 612.270) Section 2 of this bill prohibits a labor organization from threatening or otherwise attempting to illegally coerce or threaten a business into complying with a demand of the labor organization. Section 3 of this bill prohibits a labor organization or its members or agents from physically damaging the property or merchandise of any business. Section 4 of this bill provides that existing law governing the right to work and the provisions of this bill are not to be construed as limiting the rights of labor organizations or employees under the First Amendment to the United States Constitution. Section 8 of this bill provides for a civil action for violations of the provisions of this bill and provides for the vicarious liability of a labor organization for the actions of its members and presumed damages of \$5,000, or actual damages, whichever is greater and related attorney's fees and costs.~~ 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.

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

Section 1. Chapter ~~613.1~~ 40 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 3 and 4~~ to 4.5, inclusive, of this act.

Sec. 2. ~~A labor organization or any member or agent thereof~~ 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 of coercing or intimidating to coerce or intimidate that business. An employee or representative into agreeing to or otherwise complying with a demand of the labor organization, including, without limitation, any agreement concerning neutrality during a labor dispute or collective bargaining.

Sec. 3. ~~A labor organization or any member or agent thereof~~ 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 NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 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 NRS 614.160, 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 section 2 or 3 of this act, and may recover:

(a) Actual damages; and

(b) 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. ~~NRS 613.220 is hereby amended to read as follows:~~

~~613.220 As used in NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment. (Deleted by amendment.)~~

Sec. 6. ~~NRS 613.260 is hereby amended to read as follows:~~

~~613.260 Any act or any provision in any agreement which is in violation of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall be for an illegal purpose. (Deleted by amendment.)~~

Sec. 7. ~~NRS 613.280 is hereby amended to read as follows:~~

~~613.280 Any combination or conspiracy by two or more persons to violate any provision of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or to cause the discharge of any person or to cause such person to be~~

denied employment because he or she is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.] **(Deleted by amendment.)**

Sec. 8. ~~[NRS 613.290 is hereby amended to read as follows:~~

~~613.290 1. Any person who violates any provision of NRS 613.220 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or who enters into any agreement containing a provision declared illegal by NRS 613.220 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or who shall bring about the discharge or the denial of employment of any person because of nonmembership in a labor organization shall be liable to the person injured as a result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority and may sue or be sued in its common name.~~

~~2. In a civil action brought by or on behalf of a person injured pursuant to subsection 1, the defendant is liable for:~~

~~(a) Presumed damages in the amount of \$5,000 or the amount of actual damages, whichever is greater; and~~

~~(b) Attorney's fees and costs incurred as a result of bringing the action.]~~
(Deleted by amendment.)

Sec. 9. ~~[NRS 613.300 is hereby amended to read as follows:~~

~~613.300 Any person injured or threatened with injury by an act declared illegal by NRS 613.220 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall, notwithstanding any other provision of the law to the contrary, be entitled to injunctive relief therefrom.]~~
(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 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 if such picket or picket line narrows or blocks the entrances or exits, or interferes with the ability of a person or vehicle to enter or leave the property;

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

(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 immediate physical harm to a person or the property of the person or designed to incite fear of immediate physical harm in any person attempting to enter or leave any property;

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

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

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

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

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

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

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

4. A person aggrieved by a violation of this section may petition a court of competent jurisdiction to enjoin any ongoing activity that is alleged to be a violation of this section. A person who files a petition to enjoin any activity that is alleged to be a violation of this section is entitled to a rebuttable presumption of irreparable harm.

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

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

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

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

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

(a) Detaining the other person; or

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

2. The provisions of subsection 1 are inapplicable to:

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

(b) A peace officer as defined in NRS 169.125, while acting within the course and scope of his or her duties or employment.

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

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

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

Sec. 9.7. NRS 641.160 is hereby repealed.

Sec. 10. This act becomes effective ~~on July 1, 2015~~ **upon passage and 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.