

Amendment No. 265

Assembly Amendment to Assembly Bill No. 133	(BDR 10-339)
Proposed by: Assembly Committee on Judiciary	
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) 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.



ASSEMBLY BILL NO. 133--ASSEMBLYMAN
ELLIOT ANDERSON

PREFILED FEBRUARY 10, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing landlords and tenants. (BDR 10-339)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 real property rights; prohibiting adverse action against certain persons for requesting emergency assistance on a rental property in certain cases; specifying that a request for emergency assistance on a rental property does not constitute a nuisance in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill prohibit a landlord from taking adverse action against a tenant of a dwelling or manufactured home, including, without limitation, evicting or taking certain other punitive action based solely upon a tenant or other person in the rental property of the tenant requesting emergency assistance from a provider of emergency services based on a reasonable belief that an emergency response is necessary or that criminal activity has occurred. **Sections 1 and 2** also prohibit a local government or political subdivision of this State from taking adverse action against a landlord based solely on the request of a tenant or other person for emergency assistance. Sections 1 and 2 also specify that the provisions of this bill do not prohibit a landlord or a local government or political subdivision of this State from curing a breach of a rental agreement or abating a nuisance or a violation of a local law, ordinance or regulation which is discovered by or reported to the landlord by a peace officer as a result of a request for emergency assistance.

Existing law provides that any provision of a rental agreement for a dwelling or rental agreement or lease for a manufactured home lot that waives or limits certain rights or remedies provided by law is void and unenforceable and therefore any provision in such a rental agreement or lease that allows adverse action against a tenant in violation of the provisions of **sections 1 and 2** would be void and unenforceable. (NRS 118A.200, 118B.050)

Existing law provides that a nuisance includes conditions on a property that interfere with the free use or comfortable enjoyment of the property, including, without limitation, health hazards or the use of a property for the commission of certain crimes. (NRS 40.140, 202.450)

Sections 4-6 of this bill provide that a request for emergency assistance by a tenant or other person in the rental property of the tenant as described above does not constitute a nuisance for purposes of civil or criminal law.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall not take any adverse action against a tenant, including, without limitation, evicting, imposing a fine or taking any other punitive action against the tenant, based solely upon the tenant or another person in the dwelling of the tenant requesting emergency assistance if the tenant or other person had a reasonable belief that an emergency response was necessary or that criminal activity may have occurred, regardless of any other previous requests for emergency assistance by the tenant or other person.

2. A local government or other political subdivision of this State shall not deem there to be a nuisance or take any other adverse action against the landlord of a dwelling based solely upon the tenant or another person in the dwelling of the tenant requesting emergency assistance in accordance with subsection 1.

3. Any local charter, code, ordinance, regulation or other law that conflicts with this section is void and unenforceable.

4. This section does not:

(a) Prohibit a landlord from taking any action necessary to abate a nuisance on the property pursuant to NRS 40.140 or 202.450 or taking any other action which is not in conflict with the provisions of this section ~~4- or 4~~, including, without limitation, commencing eviction proceedings in accordance with the provisions of chapter 40 of NRS for any nuisance discovered by or reported to the landlord by a peace officer as a result of a request for emergency assistance pursuant to subsection 1;

(b) Authorize a tenant to breach any provision of a rental agreement that is not in conflict with this section or to violate any other provision of law ~~4- or 4~~;

(c) Prohibit a landlord from taking any action necessary to cure a breach of any provision of a rental agreement or any other provision of law by a tenant which is discovered by or reported to the landlord by a peace officer as a result of a request for emergency assistance pursuant to subsection 1; or

(d) Prohibit a local government or other political subdivision of this State from taking any action against a landlord or a tenant to abate a nuisance or a violation of any local law, ordinance or regulation which is discovered by a peace officer while responding to a request for emergency assistance pursuant to subsection 1.

5. In addition to any other remedies, a tenant, landlord or district attorney may bring a civil action in a court of competent jurisdiction for a violation of this section to seek any or all of the following relief:

(a) Declaratory and injunctive relief.

(b) Actual damages.

(c) Reasonable attorney's fees and costs.

(d) Any other legal or equitable relief that the court deems appropriate.

6. As used in this section ~~4- "emergency"~~ :

(a) "Emergency assistance" means assistance provided by an agency of the State of Nevada or a political subdivision of this State that provides police, fire-fighting, rescue, emergency medical services or any other services related to public safety.

(b) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

1 **Sec. 2.** Chapter 118B of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 1. A landlord shall not take any adverse action against a tenant, including,
4 without limitation, evicting, imposing a fine or taking any other punitive action
5 against the tenant, based solely upon the tenant or another person in the
6 manufactured home of the tenant requesting emergency assistance if the tenant
7 or other person had a reasonable belief that an emergency response was
8 necessary or that criminal activity may have occurred, regardless of any other
9 previous requests for emergency assistance by the tenant or other person.

10 2. A local government or other political subdivision of this State shall not
11 deem there to be a nuisance or take any other adverse action against the landlord
12 of a manufactured home park based solely upon the tenant or another person in
13 the manufactured home of the tenant requesting emergency assistance in
14 accordance with subsection 1.

15 3. Any local charter, code, ordinance, regulation or other law that conflicts
16 with this section is void and unenforceable.

17 4. This section does not:

18 (a) Prohibit a landlord from taking any action necessary to abate a nuisance
19 on the property pursuant to NRS 40.140 or 202.450 or taking any other action
20 which is not in conflict with the provisions of this section ~~nor~~, including,
21 without limitation, commencing eviction proceedings in accordance with the
22 provisions of chapter 40 of NRS for any nuisance discovered by or reported to the
23 landlord by a peace officer as a result of a request for emergency assistance
24 pursuant to subsection 1;

25 (b) Authorize a tenant to breach any provision of a rental agreement that is
26 not in conflict with this section or to violate any other provision of law ~~or~~;

27 (c) Prohibit a landlord from taking any action necessary to cure a breach of
28 any provision of a rental agreement or any other provision of law by a tenant
29 which is discovered by or reported to the landlord by a peace officer as a result of
30 a request for emergency assistance pursuant to subsection 1; or

31 (d) Prohibit a local government or other political subdivision of this State
32 from taking any action against a landlord or a tenant to abate a nuisance or a
33 violation of any local law, ordinance or regulation which is discovered by a peace
34 officer while responding to a request for emergency assistance pursuant to
35 subsection 1.

36 5. In addition to any other remedies, a tenant, landlord or district attorney
37 may bring a civil action in a court of competent jurisdiction for a violation of this
38 section to seek any or all of the following relief:

39 (a) Declaratory and injunctive relief.

40 (b) Actual damages.

41 (c) Reasonable attorney's fees and costs.

42 (d) Any other legal or equitable relief that the court deems appropriate.

43 6. As used in this section ~~the "emergency"~~;

44 (a) "Emergency assistance" means assistance provided by an agency of the
45 State of Nevada or a political subdivision of this State that provides police, fire-
46 fighting, rescue, emergency medical services or any other services related to
47 public safety.

48 (b) "Peace officer" means any person upon whom some or all of the powers
49 of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

50 **Sec. 3.** NRS 118B.210 is hereby amended to read as follows:

51 118B.210 1. The landlord shall not terminate a tenancy, refuse to renew a
52 tenancy, increase rent or decrease services the landlord normally supplies, or bring

1 or threaten to bring an action for possession of a manufactured home lot as
2 retaliation upon the tenant because:

3 (a) The tenant has complained in good faith about a violation of a building,
4 safety or health code or regulation pertaining to a manufactured home park to the
5 governmental agency responsible for enforcing the code or regulation.

6 (b) The tenant has complained to the landlord concerning the maintenance,
7 condition or operation of the park or a violation of any provision of NRS 118B.040
8 to 118B.220, inclusive, **and section 2 of this act** or 118B.240.

9 (c) The tenant has organized or become a member of a tenants' league or
10 similar organization.

11 (d) The tenant has requested the reduction in rent required by:

12 (1) NRS 118.165 as a result of a reduction in property taxes.

13 (2) NRS 118B.153 when a service, utility or amenity is decreased or
14 eliminated by the landlord.

15 (e) A citation has been issued to the landlord as the result of a complaint of the
16 tenant.

17 (f) In a judicial proceeding or arbitration between the landlord and the tenant,
18 an issue has been determined adversely to the landlord.

19 2. A landlord, manager or assistant manager of a manufactured home park
20 shall not willfully harass a tenant.

21 3. A tenant shall not willfully harass a landlord, manager or assistant manager
22 of a manufactured home park or an employee or agent of the landlord.

23 4. As used in this section, "harass" means to threaten or intimidate, through
24 words or conduct, with the intent to affect the terms or conditions of a tenancy or a
25 person's exercise of his or her rights pursuant to this chapter.

26 **Sec. 4.** NRS 40.140 is hereby amended to read as follows:

27 40.140 1. Except as otherwise provided in this section:

28 (a) Anything which is injurious to health, or indecent and offensive to the
29 senses, or an obstruction to the free use of property, so as to interfere with the
30 comfortable enjoyment of life or property;

31 (b) A building or place used for the purpose of unlawfully selling, serving,
32 storing, keeping, manufacturing, using or giving away a controlled substance,
33 immediate precursor or controlled substance analog;

34 (c) A building or place which was used for the purpose of unlawfully
35 manufacturing a controlled substance, immediate precursor or controlled substance
36 analog and:

37 (1) Which has not been deemed safe for habitation by the board of health;
38 or

39 (2) From which all materials or substances involving the controlled
40 substance, immediate precursor or controlled substance analog have not been
41 removed or remediated by an entity certified or licensed to do so within 180 days
42 after the building or place is no longer used for the purpose of unlawfully
43 manufacturing a controlled substance, immediate precursor or controlled substance
44 analog; or

45 (d) A building or place regularly and continuously used by the members of a
46 criminal gang to engage in, or facilitate the commission of, crimes by the criminal
47 gang,

48 **↪** is a nuisance, and the subject of an action. The action may be brought by any
49 person whose property is injuriously affected, or whose personal enjoyment is
50 lessened by the nuisance, and by the judgment the nuisance may be enjoined or
51 abated, as well as damages recovered.

52 2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➤ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. A request for emergency assistance by a tenant as described in sections 1 and 2 of this act does not constitute a nuisance.

~~4+5~~ 5. As used in this section:

(a) "Board of health" has the meaning ascribed to it in NRS 439.4797.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Criminal gang" has the meaning ascribed to it in NRS 193.168.

(d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(e) "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 5. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away;

(f) That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or

(g) Where vagrants resort,

➤ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befoils, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,
☛ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by the board of health and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

☛ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. *A request for emergency assistance by a tenant as described in sections 1 and 2 of this act is not a public nuisance.*

8. As used in this section:

(a) "Board of health" has the meaning ascribed to it in NRS 439.4797.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Criminal gang" has the meaning ascribed to it in NRS 193.168.

(d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(e) "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 6. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in ~~subsection~~ **subsections 3 and 4** of NRS 40.140 and ~~subsection~~ **subsections 6 and 7** of NRS 202.450, determine by ordinance what shall be deemed nuisances.

1 2. Provide for the abatement, prevention and removal of the nuisances at the
2 expense of the person creating, causing or committing the nuisances.

3 3. Provide that the expense of removal is a lien upon the property upon which
4 the nuisance is located. The lien must:

5 (a) Be perfected by recording with the county recorder a statement by the city
6 clerk of the amount of expenses due and unpaid and describing the property subject
7 to the lien.

8 (b) Be coequal with the latest lien thereon to secure the payment of general
9 taxes.

10 (c) Not be subject to extinguishment by the sale of any property because of the
11 nonpayment of general taxes.

12 (d) Be prior and superior to all liens, claims, encumbrances and titles other
13 than the liens of assessments and general taxes.

14 4. Provide any other penalty or punishment of persons responsible for the
15 nuisances.

16 **Sec. 7.** This act becomes effective on July 1, 2017.