

SENATE BILL NO. 116—SENATORS SETTELMAYER
AND GOICOECHEA

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing warnings against trespassing. (BDR 15-76)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 trespassing; revising provisions governing warning against trespassing; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for a person to go upon the land or into any building of another in certain circumstances, including willfully going or remaining on land or in a building after being warned by the owner or occupant thereof not to trespass. Existing law specifies that one way to provide sufficient warning against trespassing is by fencing the area. The term fence is defined as a barrier sufficient to indicate an intent to restrict the area to human ingress, which includes, but is not limited to, a wall, hedge or chain link or wire mesh fence. Under existing law, a barrier constructed of barbed wire is not sufficient to indicate an intent to restrict the area to human ingress and is not adequate warning against trespassing. (NRS 207.200)

This bill removes barbed wire barriers from the list of barriers that are not sufficient to indicate an intent to restrict the area to human ingress. This bill also specifically provides that a barrier in the form of a fence made of not less than five strands of barbed wire is adequate warning against trespassing.

The definition of "fence" amended by this bill and the provisions of existing law relating to trespassing are referenced in various other sections of the Nevada Revised Statutes, including, but not limited to, existing law that: (1) creates a cause of action for damages resulting from criminal trespass motivated by certain characteristics of the victim; (2) increases the penalty for criminal trespass motivated by certain characteristics of the victim; (3) sets forth the penalty for trespass upon the premises of a licensed gaming establishment by certain persons; (4) prohibits posting a warning against trespass on certain property; (5) creates an action for trespass committed by an unmanned aerial vehicle; and (6) prohibits



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24 hunting, trapping or fishing upon certain property. (NRS 41.690, 207.185, 207.203,
25 207.205, 493.103, 503.240)

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

1 **Section 1.** NRS 207.200 is hereby amended to read as follows:
2 207.200 1. Unless a greater penalty is provided pursuant to
3 NRS 200.603, any person who, under circumstances not amounting
4 to a burglary:

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

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

11 ↪ is guilty of a misdemeanor. The meaning of this subsection is not
12 limited by subsections 2 and 4.

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

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

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

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

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

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

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

34 (1) Intervals of such a distance as is necessary to ensure that
35 at least one such structure, natural object or post would be within the
36 direct line of sight of a person standing next to another such
37 structure, natural object or post, but at intervals of not more than
38 200 feet; and

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



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1 (c) Fencing the area; or

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

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

8 4. An entryman on land under the laws of the United States is
9 an owner within the meaning of this section.

10 5. As used in this section:

11 (a) "Fence" means a barrier sufficient to indicate an intent to
12 restrict the area to human ingress, including, but not limited to, a
13 wall, a hedge or *a fence made of* chain link, ~~for~~ wire mesh ~~fence.~~
14 ~~The term does not include a barrier made~~ *or not less than five*
15 *strands* of barbed wire.

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

20 **Sec. 2.** This act becomes effective on July 1, 2017.

