

Amendment No. 341

Senate Amendment to Senate Bill No. 316	(BDR 26-53)
Proposed by: Senate Committee on Natural Resources	
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.



SENATE BILL NO. 316—SENATORS
SETTELMAYER AND HANSEN

MARCH 18, 2019

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing ~~actions relating to state lands,~~
public nuisances. (BDR ~~26-53~~) 15-53)

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: 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 ~~state lands; prohibiting~~ public nuisances; making it a
public nuisance for a person to engage in certain ~~actions~~ activities
relating to ~~state lands;~~ highways, roads, state lands or other public
lands or lands dedicated to public use; providing ~~penalties;~~ a
penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under existing federal law, a person may be subject to punishment for committing a misdemeanor if the person: (1) encloses or asserts a right to any public lands without a claim or color of title to the public lands; or (2) by force, threats, intimidation or any other unlawful means, prevents or obstructs the free passage or transit over the public lands. (43 U.S.C. §§ 1061, 1063, 1064) Sections 2 and 3 of this bill enact similar provisions in this State. Specifically, section 2 makes it unlawful for a person to construct a fence or otherwise enclose any state land or to assert an exclusive right to use and occupy any state land if the person has no leasehold interest in or claim or color of title to the state land. Section 3 makes it unlawful~~
Existing law states that: (1) a public nuisance is a crime against the order and economy of the State; and (2) a person commits a public nuisance if he or she engages in various activities, including without limitation, unlawfully interfering with or obstructing a street, bridge or highway. (NRS 202.450) A person who commits or maintains a public nuisance for which no special punishment is prescribed is guilty of a misdemeanor, and a court may order the person to abate the nuisance and pay a civil penalty of not less than \$500 but not more than \$5,000. (NRS 202.470, 202.480) Section 3.2 of this bill expands existing law by making it a public nuisance for a person, by force, threat, intimidation or any other unlawful means, to prevent or obstruct the free passage or transit over or through
any state land certain highways, roads, state lands or other public lands or lands dedicated to public use or to knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of those highways, roads, state lands or other public lands or lands dedicated to public use, if the person has no leasehold interest in or claim or color of title to the highway, road, state land, ~~or~~ or other public land or land dedicated to public use. Sections 3.4-3.8 of this bill make conforming changes.

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

Section 1. ~~[Chapter 221 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~[1. It is unlawful for any person to:~~
~~(a) Construct, maintain or control any fence or other barrier enclosing any state land; or~~

~~(b) Assert any right to the exclusive use and occupancy of any state land, if the person has no leasehold interest, claim or color of title, made or acquired in good faith, in or to the state land included within the enclosure or for which the right is asserted.~~

~~2. A person who violates a provision of subsection 1 is guilty of a misdemeanor.]~~ (Deleted by amendment.)

Sec. 3. ~~[1. It is unlawful for any person, by force, threat or intimidation, or by fencing or otherwise enclosing, or by any other unlawful means, to prevent or obstruct the free passage or transit over or through any state land if the person has no leasehold interest, claim or color of title, made or asserted in good faith, in or to the state land.~~

~~2. A person who violates a provision of subsection 1 is guilty of a misdemeanor.]~~ (Deleted by amendment.)

Sec. 3.2. 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, befouls, 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. It is a public nuisance for any person:

(a) By force, threat or intimidation, or by fencing or otherwise enclosing, or by any other unlawful means, to prevent or obstruct the free passage or transit over or through any:

(1) Highway designated as a United States highway;

(2) Highway designated as a state highway pursuant to NRS 408.285;

(3) Main or general county road designated pursuant to NRS 403.170;

(4) State land or other public land; or

(5) Land dedicated to public use; or

(b) To knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of such a highway, road, state land or other public land or land dedicated to public use.

↳ if the person has no leasehold interest, claim or color of title, made or asserted in good faith, in or to the highway, road, state land or other public land or land dedicated to public use.

6. 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.~~ 7. 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.~~ 8. A request for emergency assistance by a tenant as described in NRS 118A.515 and 118B.152 is not a public nuisance.

~~8.~~ 9. 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.

(f) "State land" has the meaning ascribed to it in NRS 383.425.

Sec. 3.4. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~6~~ 7 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 3.6. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsections 3 and 4 of NRS 40.140 and subsections ~~6~~ 7 and ~~7~~ 8 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

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

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

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

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

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

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

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

Sec. 3.8. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~6~~ 7 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 4. This act becomes effective on July 1, 2019.