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SENATE BILL 221

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO CRIMINAL LAW; AMENDING THE POSTING AND NOTICE
REQUIREMENTS FOR CRIMINAL TRESPASS; AMENDING SECTIONS OF THE
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-14-1 NMSA 1978 (being Laws 1963,
Chapter 303, Section 14-1, as amended) is amended to read:

"30-14-1. CRIMINAL TRESPASS. --

A. Criminal trespass consists of knowingly entering
or remaining upon fenced or posted private property without
possessing written permission from the owner or person in
control of the land. The provisions of this subsection do not
apply if:

(1) the owner or person in control of the land
has entered into an agreement with the department of game and

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1 fish granting access to the land to the general public for the
2 purpose of taking any game animals, birds or fish by hunting or
3 fishing; or

4 (2) a person is in possession of a landowner
5 license given to him by the owner or person in control of the
6 land that grants access to that particular private land for the
7 purpose of taking any game animals, birds or fish by hunting or
8 fishing.

9 B. Criminal trespass also consists of knowingly
10 entering or remaining upon the unposted lands of another
11 knowing that such consent to enter or remain is denied or
12 withdrawn by the owner or occupant [~~thereof~~] of the lands.
13 Notice of no consent to enter unposted private property shall
14 be deemed sufficient notice to the public and evidence to the
15 courts, by [~~the posting of the property at all vehicular access~~
16 ~~entry ways~~] the written communication by the owner, lessee,
17 person in lawful possession or his agent or by the existence of
18 fencing or other enclosure obviously designed to exclude
19 intruders or to contain livestock.

20 C. Criminal trespass also consists of knowingly
21 entering or remaining upon lands owned, operated or controlled
22 by the state or any of its political subdivisions knowing that
23 consent to enter or remain is denied or withdrawn by the
24 custodian [~~thereof~~] of the lands.

25 D. Any person who enters upon the lands of another

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1 without prior permission and injures, damages or destroys any
2 part of the realty or its improvements, including buildings,
3 structures, trees, shrubs or other natural features, is guilty
4 of a misdemeanor and [he] shall be liable to the owner, lessee
5 or person in lawful possession for civil damages in an amount
6 equal to double the value of the damage to the property injured
7 or destroyed.

8 E. Whoever commits criminal trespass is guilty of a
9 misdemeanor. Additionally, any person who violates the
10 provisions of Subsection A, B or C of this section, when in
11 connection with hunting, fishing or trapping activity, shall
12 have his hunting or fishing license revoked by the state game
13 commission for a period of not less than three years, pursuant
14 to the provisions of Section 17-3-34 NMSA 1978.

15 F. Whoever knowingly removes, tampers with or
16 destroys any "no trespass" sign is guilty of a petty
17 misdemeanor; except when the damage to the sign amounts to more
18 than one thousand dollars (\$1,000), he [~~or she~~] is guilty of a
19 misdemeanor and shall be subject to imprisonment in the county
20 jail for a definite term less than one year or a fine not more
21 than one thousand dollars (\$1,000) or to both such imprisonment
22 and fine in the discretion of the judge.

23 G. This section, as amended, shall be published in
24 all issues of "Big Game Hunt Proclamation" as published by the
25 department of game and fish. "

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1 Section 2. Section 30-14-1.1 NMSA 1978 (being Laws 1979,
2 Chapter 186, Section 2, as amended) is amended to read:

3 "30-14-1.1. TYPES OF TRESPASS--INJURY TO REALTY--CIVIL
4 DAMAGES. --

5 A. Any person who enters and remains on the lands
6 of another after having been requested to leave is guilty of a
7 misdemeanor.

8 B. Any person who enters upon the lands of another
9 when such lands are posted against trespass [~~at every roadway~~
10 ~~or apparent way of access~~] is guilty of a misdemeanor.

11 C. Any person who drives a vehicle upon the lands
12 of another except through a roadway or other apparent way of
13 access, when such lands are fenced in any manner or posted, is
14 guilty of a misdemeanor.

15 D. In the event any person enters upon the lands of
16 another without prior permission and injures, damages or
17 destroys any part of the realty or its improvements, including
18 buildings, structures, trees, shrubs or other natural features,
19 he shall be liable to the owner, lessee or person in lawful
20 possession for damages in an amount equal to double the amount
21 of the appraised value of the damage of the property injured or
22 destroyed. "

23 Section 3. Section 30-14-6 NMSA 1978 (being Laws 1969,
24 Chapter 195, Section 2, as amended) is amended to read:

25 "30-14-6. NO TRESPASSING NOTICE--SIGN CONTENTS--POSTING--
. 149980. 1

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1 REQUIREMENT- - ~~[PRESCRIBING A PENALTY FOR]~~ WRONGFUL POSTING OF
2 PUBLIC LANDS- - PENALTY. - -

3 A. The owner, lessee or person lawfully in
4 possession of real property in New Mexico, except property
5 owned by the state or federal government, desiring to prevent
6 trespass or entry onto the real property shall ~~[post notices~~
7 ~~parallel to and along the exterior boundaries of the property~~
8 ~~to be posted, at each roadway or other way of access in~~
9 ~~conspicuous places, and if the property is not fenced, such~~
10 ~~notices shall be posted every five hundred feet along the~~
11 ~~exterior boundaries of such land.~~

12 B. ~~The notices posted shall prohibit all persons~~
13 ~~from trespassing or entering upon the property without~~
14 ~~permission of the owner, lessee, person in lawful possession or~~
15 ~~his agent. The notices shall:~~

16 (1) ~~be printed legibly in English;~~

17 (2) ~~be at least one hundred forty four square~~
18 ~~inches in size;~~

19 (3) ~~contain the name and address of the person~~
20 ~~under whose authority the property is posted or the name and~~
21 ~~address of the person who is authorized to grant permission to~~
22 ~~enter the property;~~

23 (4) ~~be placed at each roadway or apparent way~~
24 ~~of access onto the property in addition to the posting of the~~
25 ~~boundaries; and~~

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1 ~~(5) where applicable, state any specific~~
2 ~~prohibition that the posting is directed against, such as "no~~
3 ~~trespassing", "no hunting", "no fishing", "no digging" or any~~
4 ~~other specific prohibition.]~~ provide notice that trespass or
5 entry is forbidden without permission of the owner, lessee,
6 person in lawful possession or his agent.

7 B. For purposes of this section, "notice" means:

8 (1) written communication by the owner,
9 lessee, person in lawful possession, his agent or someone with
10 apparent authority to act for the owner;

11 (2) fencing or other enclosure obviously
12 designed to exclude intruders or to contain livestock;

13 (3) a sign or signs posted on the property or
14 at the entrance to the building, reasonably likely to come to
15 the attention of intruders, indicating that entry is forbidden;
16 or

17 (4) the placement of identifying orange paint
18 marks on trees or posts on the property; provided that the
19 marks are:

20 (a) vertical lines of not less than
21 eight inches in length and not less than one inch in width;

22 (b) placed so that the bottom of the
23 mark is not less than three feet from the ground or more than
24 five feet from the ground; and

25 (c) placed at locations that are readily

1 visible to any person approaching the property and no more
2 than: 1) five hundred feet apart on forest land; and 2) one
3 thousand feet apart or within line of sight of one another on
4 land other than forest land.

5 C. Any person who posts public lands contrary to
6 state or federal law or [~~regualtion~~] regulation is guilty of a
7 petty misdemeanor. "

8 Section 4. EFFECTIVE DATE. --The effective date of the
9 provisions of this act is July 1, 2004.