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HOUSE BILL 163

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gloria C. Vaughn

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~~ the person by the owner or person in
6 control of the land that grants access to that particular
7 private land for the purpose of taking any game animals, birds
8 or fish by hunting or 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12 withdrawn by the owner or occupant ~~thereof~~ of the lands.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~~ written communication by the owner, lessee or
17 person in lawful possession of the property or the owner's,
18 lessee's or person's agent or by the existence of fencing or
19 other enclosure of the property obviously designed to exclude
20 intruders or to contain livestock.

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24 consent to enter or remain is denied or withdrawn by the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

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

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

17 F. ~~[Whoever]~~ Any person who knowingly removes,
18 tampers with or destroys any "no trespass" sign is guilty of a
19 petty misdemeanor; ~~[except]~~ provided that when the damage to
20 the sign amounts to more than one thousand dollars (\$1,000),
21 ~~[he or she]~~ the person is guilty of a misdemeanor and shall be
22 subject to imprisonment in the county jail for a definite term
23 less than one year or a fine not more than one thousand dollars
24 (\$1,000) or to both such imprisonment and fine in the
25 discretion of the judge.

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

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

6 "30-14-1.1. TYPES OF TRESPASS--INJURY TO REALTY--CIVIL
7 DAMAGES.--

8 A. Any person who enters and remains on the lands
9 of another after having been requested to leave is guilty of a
10 misdemeanor.

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

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

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

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

3 "30-14-6. NO TRESPASSING NOTICE--~~[SIGN CONTENTS--~~
4 ~~POSTING--REQUIREMENT--PRESCRIBING A PENALTY FOR WRONGFUL~~
5 ~~POSTING OF PUBLIC LANDS]~~ PENALTY.--

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

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

- 19 ~~(1) be printed legibly in English;~~
20 ~~(2) be at least one hundred forty-four square~~
21 ~~inches in size;~~
22 ~~(3) contain the name and address of the person~~
23 ~~under whose authority the property is posted or the name and~~
24 ~~address of the person who is authorized to grant permission to~~
25 ~~enter the property;~~

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

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

11 ~~[G.]~~ B. Any person who posts public lands contrary
12 to state or federal law or ~~[regulation]~~ regulation is guilty of
13 a petty misdemeanor.

14 C. For purposes of this section, "notice" means:

15 (1) written communication by the owner, lessee
16 or person in lawful possession of the property or the owner's,
17 lessee's or person's agent or by someone with apparent
18 authority to act for the owner;

19 (2) fencing or other enclosure of the property
20 obviously designed to exclude intruders or to contain
21 livestock;

22 (3) a sign posted on the property or at the
23 entrance to the building, reasonably likely to come to the
24 attention of intruders, indicating that entry is forbidden; or

25 (4) the placement of identifying orange paint

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1 marks on trees or posts on the property, provided that the
2 marks are:

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

5 (b) placed so that the bottom of the
6 mark is not less than three feet from the ground or more than
7 five feet from the ground; and

8 (c) placed at locations that are readily
9 visible to any person approaching the property and no more
10 than: 1) five hundred feet apart on forested land; and 2) one
11 thousand feet apart or line of sight visible on land other than
12 forested land."