

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1293

Introduced by

Representatives Grueneich, Dockter, Headland, K. Koppelman, Lefor, Nathe, Oliver, M. Ruby, Satrom, Seibel

Senator Wanzek

1 A BILL ~~for an Act to amend and reenact section 12.1-22-03 of the North Dakota Century Code,~~
2 ~~relating to trespassing on posted property; and to provide a penalty.~~for an Act to amend and
3 reenact sections 12.1-22-03 and 37-17.1-22 of the North Dakota Century Code, relating to
4 trespassing on posted property and disaster and emergency response recovery costs; to
5 provide a penalty; and to declare an emergency.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 ~~SECTION 1. AMENDMENT.~~ Section 12.1-22-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 ~~12.1-22-03. Criminal trespass – Noncriminal offense on posted property.~~

10 ~~1. An individual is guilty of a class C felony if, knowing that that individual is not licensed~~
11 ~~or privileged to do so, the individual enters or remains in a dwelling or in highly~~
12 ~~secured premises.~~

13 ~~2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not~~
14 ~~licensed or privileged to do so, the individual:~~

15 ~~a. Enters or remains in or on any building, occupied structure, or storage structure,~~
16 ~~or separately secured or occupied portion thereof; or~~

17 ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders.~~

18 ~~3. An individual is guilty of a class B misdemeanor if, knowing that that individual is not~~
19 ~~licensed or privileged to do so, the individual enters or remains in any place as to~~
20 ~~which notice against trespass is given by actual communication to the actor by the~~
21 ~~individual in charge of the premises or other authorized individual or by posting in a~~
22 ~~manner reasonably likely to come to the attention of intruders. The name of the person~~
23 ~~posting the premises must appear on each sign in legible characters, knowing the~~

1 ~~individual is not licensed or privileged to do so, may not enter or remain in a place as~~
2 ~~to which notice against trespass is given by posting in a manner reasonably likely to~~
3 ~~come to the attention of intruders. The name of the person posting the premises must~~
4 ~~appear on each sign in legible characters. A violation of this subsection is a~~
5 ~~noncriminal offense.~~

6 ~~a. A peace officer shall cite an individual who violates this subsection with a fine of~~
7 ~~two hundred fifty dollars for each violation.~~

8 ~~b. The peace officer citing the individual shall:~~

9 ~~(1) Take the name and address of the individual; and~~

10 ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~

11 ~~c. The peace officer may not take the individual into custody or require the~~
12 ~~individual to proceed with the peace officer to any other location for the purpose~~
13 ~~of posting bond. The officer shall provide the individual with an envelope for use~~
14 ~~in mailing the bond.~~

15 ~~d. An individual cited may appear before the designated official and pay the~~
16 ~~statutory fine for the violation at or before the time scheduled for hearing.~~

17 ~~e. If the individual has posted bond, the individual may forfeit bond by not appearing~~
18 ~~at the designated time.~~

19 ~~f. If the individual posts bond by mail, the bond must be submitted within fourteen~~
20 ~~days of the date of the citation and the individual cited shall indicate on the~~
21 ~~envelope or citation whether a hearing is requested. If the individual does not~~
22 ~~request a hearing within fourteen days of the date of the citation, the bond is~~
23 ~~deemed forfeited and the violation admitted. If the individual requests a hearing,~~
24 ~~the court for the county in which the citation is issued shall issue a summons to~~
25 ~~the individual requesting the hearing notifying the individual of the date of the~~
26 ~~hearing before the designated official.~~

27 ~~g. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~
28 ~~at the individual's request, the individual may make a statement in explanation of~~
29 ~~the individual's action. The official may at that time waive or suspend the statutory~~
30 ~~fine or bond. If the individual cited follows the foregoing procedures, the individual~~

~~is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.~~

~~h. A citing peace officer may not receive the statutory fine or bond. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

~~4. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

~~5. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.~~

SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
 - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
 - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
 - b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of

1 violating subdivision a if the owner, tenant, or individual authorized by the owner
2 substantially complied with subdivision a and notice against trespass is clear
3 from the circumstances.

4 c. An individual who violates ~~this subsection~~ subdivision a is guilty of a class A
5 misdemeanor for the second or subsequent offense within a two-year period.

6 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
7 not enter or remain in a place as to which notice against trespass is given by
8 posting in a manner reasonably likely to come to the attention of intruders. A
9 violation of this subdivision is a noncriminal offense.

10 b. A peace officer shall cite an individual who violates subdivision a with a fine of
11 two hundred fifty dollars for each violation.

12 c. The peace officer citing the individual shall:

13 (1) Take the name and address of the individual; and

14 (2) Notify the individual of the right to request a hearing if posting bond by mail.

15 d. The peace officer may not take the individual into custody or require the
16 individual to proceed with the peace officer to any other location for the purpose
17 of posting bond. The officer shall provide the individual with an envelope for use
18 in mailing the bond.

19 e. An individual cited may appear before the designated official and pay the
20 statutory fine for the violation at or before the time scheduled for hearing.

21 f. If the individual has posted bond, the individual may forfeit bond by not appearing
22 at the designated time.

23 g. If the individual posts bond by mail, the bond must be submitted within fourteen
24 days of the date of the citation and the individual cited shall indicate on the
25 envelope or citation whether a hearing is requested. If the individual does not
26 request a hearing within fourteen days of the date of the citation, the bond is
27 deemed forfeited and the individual is deemed to have admitted to the violation
28 and to have waived the right to a hearing on the issue of commission of the
29 violation. If the individual requests a hearing, the court for the county in which the
30 citation is issued shall issue a summons to the individual requesting the hearing
31 notifying the individual of the date of the hearing before the designated official.

1 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
2 at the individual's request, the individual may make a statement in explanation of
3 the individual's action. The official may at that time waive or suspend the statutory
4 fine or bond.

5 i. A citing peace officer may not receive the statutory fine or bond.

6 j. The bond required to secure appearance before the judge must be identical to
7 the statutory fine established in subdivision b.

8 ~~4.5.~~ An individual is guilty of a class B misdemeanor if that individual remains upon the
9 property of another after being requested to leave the property by a duly authorized
10 individual. An individual who violates this subsection is guilty of a class A
11 misdemeanor for the second or subsequent offense within a two-year period.

12 ~~5.6.~~ This section does not apply to a peace officer in the course of discharging the peace
13 officer's official duties.

14 **SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 ~~**37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and**~~
17 ~~**recovery costs.**~~

18 ~~Whenever the governor declares a state of disaster or emergency in accordance with~~
19 ~~section 37-17.1-05, or when the governor enters into an agreement with the federal government~~
20 ~~following a disaster or emergency declared by the president of the United States, the director of~~
21 ~~the division of homeland security shall determine and record the costs of the state and local~~
22 ~~response and recovery operations in accordance with an agreement with the federal~~
23 ~~government, in accordance with procedures established by the governor in the case of a~~
24 ~~state-declared disaster or emergency, and in accordance with procedures established by the~~
25 ~~state emergency response plan. If the event has met the Stafford Act minimum for a presidential~~
26 ~~disaster declaration and for which the request is denied, the governor shall make application to~~
27 ~~the state emergency commission for a grant of funds in an amount equal to the response and~~
28 ~~recovery costs of the state and fifty percent of the public infrastructure recovery costs above~~
29 ~~statutorily maintained emergency funds for counties that exceeds twice the individual county~~
30 ~~federal declaration eligibility threshold, limited to a maximum amount available per disaster of~~
31 ~~one million dollars and a maximum amount available per biennium of three million dollars.~~

1 ~~Immediately following the response or recovery operations, or prior thereto if determined~~
2 ~~necessary by the governor, the governor shall make application to the state emergency~~
3 ~~commission for a grant of funds in an amount equal to the response and recovery costs of the~~
4 ~~state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed~~
5 ~~upon receipt by the emergency commission of such application from the governor that a~~
6 ~~disaster or emergency exists, and the commission immediately shall grant and direct the~~
7 ~~transfer to the department of the governor's designated representative of an amount equal to~~
8 ~~that certified in such application by the governor.~~

9 ~~—~~ **(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

10 Whenever the governor declares a state of disaster or emergency in accordance with
11 section 37-17.1-05, or when the governor enters into an agreement with the federal government
12 following a disaster or emergency declared by the president of the United States, the director of
13 the division of homeland security shall determine and record the costs of the state response
14 and recovery operations in accordance with an agreement with the federal government or in
15 accordance with procedures established by the governor in the case of a state-declared
16 disaster or emergency. Immediately following the response or recovery operations, or prior
17 thereto if determined necessary by the governor, the governor shall make application to the
18 state emergency commission for a grant of funds in an amount equal to the response and
19 recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be
20 conclusively presumed upon receipt by the emergency commission of such application from the
21 governor that a disaster or emergency exists, and the commission immediately shall grant and
22 direct the transfer to the department of the governors designated representative of an amount
23 equal to that certified in such application by the governor.

24 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.