

**FIRST ENGROSSMENT
with Senate Amendments
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 sections 12.1-22-03 and 37-17.1-22 of the North
2 Dakota Century Code, relating to trespassing on posted property and disaster and emergency
3 response recovery costs; to provide a penalty; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

- 8 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
9 or privileged to do so, the individual enters or remains in a dwelling or in highly
10 secured premises.
- 11 2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not
12 licensed or privileged to do so, the individual:
- 13 a. Enters or remains in or on any building, occupied structure, or storage structure,
14 or separately secured or occupied portion thereof; or
- 15 b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
- 16 3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is
17 not licensed or privileged to do so, the individual enters or remains in any place
18 as to which notice against trespass is given by actual communication to the actor
19 by the individual in charge of the premises or other authorized individual or by
20 posting in a manner reasonably likely to come to the attention of intruders. The
21 name of the person posting the premises must appear on each sign in legible
22 characters.

- 1 b. Even if the conduct of the owner, tenant, or individual authorized by the owner
2 varies from the provisions of subdivision a, an individual may be found guilty of
3 violating subdivision a if the owner, tenant, or individual authorized by the owner
4 substantially complied with subdivision a and notice against trespass is clear
5 from the circumstances.
- 6 c. An individual who violates ~~this subsection~~ subdivision a is guilty of a class A
7 misdemeanor for the second or subsequent offense within a two-year period.
- 8 4. a. An individual, knowing the individual is not licensed or privileged to do so, may
9 not enter or remain in a place as to which notice against trespass is given by
10 posting in a manner reasonably likely to come to the attention of intruders. A
11 violation of this subdivision is a noncriminal offense.
- 12 b. A peace officer shall cite an individual who violates subdivision a with a fine of
13 two hundred fifty dollars for each violation.
- 14 c. The peace officer citing the individual shall:
- 15 (1) Take the name and address of the individual; and
16 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 17 d. The peace officer may not take the individual into custody or require the
18 individual to proceed with the peace officer to any other location for the purpose
19 of posting bond. The officer shall provide the individual with an envelope for use
20 in mailing the bond.
- 21 e. An individual cited may appear before the designated official and pay the
22 statutory fine for the violation at or before the time scheduled for hearing.
- 23 f. If the individual has posted bond, the individual may forfeit bond by not appearing
24 at the designated time.
- 25 g. If the individual posts bond by mail, the bond must be submitted within fourteen
26 days of the date of the citation and the individual cited shall indicate on the
27 envelope or citation whether a hearing is requested. If the individual does not
28 request a hearing within fourteen days of the date of the citation, the bond is
29 deemed forfeited and the individual is deemed to have admitted to the violation
30 and to have waived the right to a hearing on the issue of commission of the
31 violation. If the individual requests a hearing, the court for the county in which the

- 1 citation is issued shall issue a summons to the individual requesting the hearing
2 notifying the individual of the date of the hearing before the designated official.
3 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
4 at the individual's request, the individual may make a statement in explanation of
5 the individual's action. The official may at that time waive or suspend the statutory
6 fine or bond.
7 i. A citing peace officer may not receive the statutory fine or bond.
8 j. The bond required to secure appearance before the judge must be identical to
9 the statutory fine established in subdivision b.

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

14 5.6. This section does not apply to a peace officer in the course of discharging the peace
15 officer's official duties.

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

18 **~~37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and~~**
19 **~~recovery costs.~~**

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

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

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

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

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