21.0161.04000

Sixty-seventh
Legislative Assembly
of North Dakota

FIRST DRAFT:
Prepared by the Legislative Council staff for the
Natural Resources Committee
September 2020

Introduced by

A BILL for an Act to amend and reenact section 12.1-22-03 of the North Dakota Century Code, relating to posting land and criminal trespass for recreational purposes; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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~~the 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~~the 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~~the 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, or by designating the land as posted or closed in an online database or other electronic application maintained or authorized by the state and available to the public. ~~The~~On physically posted land, the name of the person posting the premises

~~must~~may appear on each sign in legible characters if the person wishes to be contacted by individuals seeking permission to enter or remain on the land.

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

c. An individual who violates subdivision a 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, knowing the individual is not licensed or privileged to do so, the individual enters or remains in any place outside the limits of a city and owned by another person, for recreational purposes other than hunting or pursuing game. For this section, "recreational purposes" means any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

5. a. ~~An~~A peace officer may cite an individual who, knowing the individual is not licensed or privileged to do so, ~~may not enter or remain~~entered or remained in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders~~. A violation of this subdivision is~~ or by designating the land as posted or closed in an online database or other electronic application maintained or authorized by the state and available to the public with a noncriminal offense. An individual cited under this subsection may not be prosecuted under subsection 3 or 4 for the same offense.

b. ~~A peace officer shall cite an individual who violates subdivision a with a~~The fine ~~of~~for a citation under subdivision a is two hundred fifty dollars for each violation.

c. The peace officer citing the individual shall:

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

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

d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose

of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.

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

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

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

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

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

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

~~5.~~6. An individual is guilty of a class B misdemeanor if ~~that~~the 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.

~~6.~~7. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.