

SENATE BILL NO. 2144

Introduced by

Senators Erbele, Patten, Bell

Representatives Damschen, Dobervich, Tveit

1 A BILL for an Act to amend and reenact sections 12.1-22-03 and 20.1-01-17 of the North
2 Dakota Century Code, relating to criminal trespass and electronic posting; and to provide a
3 penalty.

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~~the individual is not
9 licensed or privileged to do so, the individual enters or remains in a dwelling or in
10 highly secured premises.

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

13 ~~a. Enters~~enters or remains in or on any building, occupied structure, or storage
14 structure, or separately secured or occupied portion thereof; ~~or~~

15 ~~b. Enters or remains in any place so enclosed by a fence or otherwise enclosed as~~
16 ~~manifestly to exclude intruders, unless the individual is a licensed hunter or~~
17 ~~angler who is lawfully hunting or fishing. For purposes of this subdivision, "fence"~~
18 ~~means a permanent structure on nonurban, private property which is maintained~~
19 ~~and capable of containing livestock.~~

20 3. a. An individual is guilty of a class B misdemeanor if, ~~knowing that that~~:

21 (1) Knowing the individual is not licensed or privileged to do so, the individual
22 enters or remains in any place as to which notice against trespass is given
23 by actual communication to the actor by the ~~individual in charge of the~~
24 ~~premises or other authorized individual~~owner or an individual authorized by

1 the owner or by posting in a manner reasonably likely to come to the
2 attention of intruders. The name of the person posting the premises must
3 appear on each sign in legible characters; or

4 (2) The individual enters or remains in any place enclosed by a fence or
5 otherwise enclosed as manifestly to exclude intruders, unless the individual
6 is a licensed hunter or angler who is lawfully hunting or fishing. For
7 purposes of this subdivision, "fence" means a permanent structure on
8 nonurban, private property which is maintained and capable of containing
9 livestock.

10 b. Even if the conduct of the owner, ~~tenant~~, or individual authorized by the owner
11 varies from the provisions of paragraph 1 of subdivision a, an individual may be
12 found guilty of violating paragraph 1 of subdivision a if the owner, ~~tenant~~, or
13 individual authorized by the owner substantially complied with paragraph 1 of
14 subdivision a and notice against trespass is clear from the circumstances.

15 c. An individual who violates paragraph 1 of subdivision a is guilty of a class A
16 misdemeanor for the second or subsequent offense within a two-year period.

17 4. a. ~~An~~ A peace officer may cite an individual who, knowing the individual is not
18 licensed or privileged to do so, ~~may not enter or remain entered or remained~~ in a
19 place as to which notice against trespass is given by posting in a manner
20 reasonably likely to come to the attention of intruders. ~~A violation of this~~
21 ~~subdivision is~~ , with a noncriminal offense. An individual cited under this
22 subsection may not be prosecuted under subsection 3 for the same offense.

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

25 c. The peace officer citing the individual shall:

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

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

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

- 1 e. An individual cited may appear before the designated official and pay the
2 statutory fine for the violation at or before the time scheduled for hearing.
- 3 f. If the individual has posted bond, the individual may forfeit bond by not appearing
4 at the designated time.
- 5 g. If the individual posts bond by mail, the bond must be submitted within fourteen
6 days of the date of the citation and the individual cited shall indicate on the
7 envelope or citation whether a hearing is requested. If the individual does not
8 request a hearing within fourteen days of the date of the citation, the bond is
9 deemed forfeited and the individual is deemed to have admitted to the violation
10 and to have waived the right to a hearing on the issue of commission of the
11 violation. If the individual requests a hearing, the court for the county in which the
12 citation is issued shall issue a summons to the individual requesting the hearing
13 notifying the individual of the date of the hearing before the designated official.
- 14 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
15 at the individual's request, the individual may make a statement in explanation of
16 the individual's action. The official may at that time waive or suspend the statutory
17 fine or bond.
- 18 i. A citing peace officer may not receive the statutory fine or bond.
- 19 j. The bond required to secure appearance before the judge must be identical to
20 the statutory fine established in subdivision b.
- 21 5. An individual is guilty of a class B misdemeanor if that individual remains upon the
22 property of another after being requested to leave the property by a duly authorized
23 individual. An individual who violates this subsection is guilty of a class A
24 misdemeanor for the second or subsequent offense within a two-year period.
- 25 6. This section does not apply to a peace officer in the course of discharging the peace
26 officer's official duties.

27 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**

2 **defaced.**

3 1. Only the owner ~~or tenant~~ or an individual authorized by the owner of land may post the
4 land ~~by placing~~. To post the land, an individual shall:

5 a. Place signs alongside the public highway or the land giving notice that hunting is
6 not permitted on the land. The name of the person posting the land must appear
7 on each sign in legible characters. The signs must be readable from the outside
8 of the land and must be placed conspicuously not more than eight hundred eighty
9 yards [804.68 meters] apart. As to land entirely enclosed by a fence or other
10 enclosure, posting of signs at or on all gates through the fence or enclosure
11 constitutes a posting of all the enclosed land; or

12 b. Designate the land as posted or closed to hunting in an online database or other
13 electronic application maintained or authorized by the state and available to the
14 public which identifies whether land is available to hunters. The name of the
15 person posting the land electronically must be visible to users of the online
16 database or electronic application.

17 2. A person may not deface, take down, destroy posting signs, or post property without
18 the permission of the owner ~~or tenant~~ or an individual authorized by the owner.

19 3. Even if the conduct of the owner, ~~tenant~~, or individual authorized by the owner varies
20 from the provisions of subsection 1, an individual may be found guilty of violating
21 section 20.1-01-18 if the owner, ~~tenant~~, or individual authorized by the owner
22 substantially complied with subsection 1 and notice against hunting or trespassing is
23 clear from the circumstances.