

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1305

Introduced by

Representatives Kasper, Bosch, Headland, Koppelman, Louser, Motschenbacher, Steiner
Senators Clemens, Cory, Meyer

1 A BILL for an Act to amend and reenact section 12.1-22-03 and subsection 1 of section
2 12.1-22-06 of the North Dakota Century Code, relating to criminal trespass; 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 the individual is not licensed or
9 privileged to do so, the individual enters or remains in a dwelling or in highly secured
10 premises.

11 2. An individual who unlawfully detains, occupies, or trespasses upon a residential
12 dwelling is guilty of a class C felony for the first offense and a class B felony for a
13 second or subsequent offense if the second or subsequent offense occurred at the
14 same residential dwelling as the first offense.

15 3. An individual is guilty of a class A misdemeanor if, knowing the individual is not
16 licensed or privileged to do so, the individual:

17 a. Enters or remains in or on any building, occupied structure, or storage structure,
18 or separately secured or occupied portion thereof; or

19 b. Enters or remains in any place enclosed by a fence or otherwise enclosed as
20 manifestly to exclude intruders, unless the individual is a licensed hunter or
21 angler who is lawfully hunting or fishing. For purposes of this subdivision, "fence"

1 means a permanent structure on nonurban, private property which is maintained
2 and capable of containing livestock.

3 ~~3.4.~~ a. An individual is guilty of a class B misdemeanor if, knowing the individual is not
4 licensed or privileged to do so, the individual enters or remains in any place as to
5 which notice against trespass is given by actual communication to the actor by
6 the owner or an individual authorized by the owner or by posting in a manner
7 reasonably likely to come to the attention of intruders. The name of the person
8 posting the premises must appear on each sign in legible characters.

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

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

16 ~~4.5.~~ a. A peace officer may cite an individual who, knowing the individual is not licensed
17 or privileged to do so, entered or remained in a place as to which notice against
18 trespass is given by posting in a manner reasonably likely to come to the
19 attention of intruders or a place enclosed by a fence as defined in subsection 2,
20 with a noncriminal offense. An individual cited under this subsection may not be
21 prosecuted under subsection 2 or 3 for the same offense.

22 b. The fine for a citation under subdivision a is two hundred fifty dollars for each
23 violation.

24 c. The peace officer citing the individual shall:
25 (1) Take the name and address of the individual; and
26 (2) Notify the individual of the right to request a hearing if posting bond by mail.

27 d. The peace officer may not take the individual into custody or require the
28 individual to proceed with the peace officer to any other location for the purpose
29 of posting bond. The officer shall provide the individual with an envelope for use
30 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 ~~5.6.~~ 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 ~~6.7.~~ 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.** Subsection 1 of section 12.1-22-06 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 1. ~~"Dwelling" has the meaning prescribed in subsection 2 of section 12.1-05-12~~means
30 real property or residential property, including a building, structure, or part of a building

- 1 or structure, used or intended to be used as a home, residence, or sleeping place by
- 2 an individual.