

Introduced by Senator Romero

February 16, 2007

An act to add Section 602.12 to the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Unlawful entry: tribal land.

Existing law, subject to specified exceptions, makes it a crime for a person to enter or remain on another's property without the consent of the owner, his or her agent, or the person in lawful possession of that property.

~~This bill would express the Legislature's intent to enact legislation addressing the issue of unlawful entry onto the land of a federally recognized Indian tribe~~ *make it an infraction for a person to willfully enter upon Indian lands occupied by a federally recognized tribe, band, or group of which the person is not a member in specified circumstances, including where the lands are under cultivation or enclosed by a fence, are uncultivated and unenclosed but marked by signs forbidding trespass, or after receiving written notice by the tribal government occupying the land. By creating a new infraction, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 602.12 is added to the Penal Code, to*
 2 *read:*
 3 *602.12. (a) Any person who willfully enters upon any Indian*
 4 *lands occupied by a federally recognized tribe, band, or group of*
 5 *which the person is not a member, in any of the following*
 6 *circumstances, is guilty of an infraction:*
 7 *(1) The lands are under cultivation or enclosed by a fence.*
 8 *(2) The lands are uncultivated or unenclosed and signs*
 9 *forbidding trespass are displayed at intervals not less than three*
 10 *to the mile along all exterior boundaries and at all roads and trails*
 11 *entering the lands.*
 12 *(3) After receiving written notice forbidding trespass by the*
 13 *tribal government occupying the land.*
 14 *(b) Any person convicted of a violation of subdivision (a) shall*
 15 *be punished as follows:*
 16 *(1) A first offense is punishable by a fine of not more than two*
 17 *hundred fifty dollars (\$250).*
 18 *(2) A second or subsequent offense is punishable by a fine of*
 19 *no more than five hundred dollars (\$500).*
 20 *(c) Subdivision (a) shall not apply to any of the following:*
 21 *(1) Any person engaged in lawful labor union activities*
 22 *permitted to be carried out on property by the California*
 23 *Agricultural Labor Relations Act (Part 3.5 (commencing with*
 24 *Section 1140) of Division 2 of the Labor Code), or by the National*
 25 *Labor Relations Act (29 U.S.C. Sec. 151 et seq.).*
 26 *(2) Any person who is conducting activities protected by the*
 27 *California or United States Constitution.*
 28 *(3) Any person described in Section 22350 of the Business and*
 29 *Professions Code who is making a lawful service of process.*
 30 *(4) Any person licensed pursuant to Chapter 15 (commencing*
 31 *with Section 8700) of Division 3 of the Business and Professions*
 32 *Code who is engaged in the lawful practice of land surveying as*
 33 *authorized by Section 846.5 of the Civil Code.*

1 (d) This section shall not preclude the enforcement of any other
2 section of law, including Section 602.8.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 3. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to expeditiously address a growing public safety
17 problem from persons trespassing on Indian lands, it is necessary
18 that this act take effect immediately.

19 ~~SECTION 1. It is the intent of the Legislature to enact~~
20 ~~legislation addressing the issue of unlawful entry onto the land of~~
21 ~~a federally recognized Indian tribe.~~