

AMENDED IN SENATE JULY 1, 2010
AMENDED IN SENATE MAY 26, 2010
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 668

Introduced by Assembly Member Lieu

February 25, 2009

An act to amend Section 602 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Lieu. Trespass.

Existing law makes it unlawful for persons to engage in certain acts of trespass. In particular it is unlawful for a person who has been convicted of a violent felony committed upon a particular private property to enter upon that property after having been informed by a peace officer that the property is not open to the particular person; or to refuse or fail to leave the property upon being asked to leave the property, as specified.

This bill would expand the scope of this offense by providing that *during a specified timeframe* it is unlawful for a person who has been convicted of ~~any crime~~ *felony, any misdemeanor, or a specified infraction*, committed upon a particular private property, to enter or refuse or fail to leave that property after being informed by a peace officer that the property is not open to the particular person, or to refuse or fail to leave when asked, as specified.

By expanding the scope of an existing crime, this 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 602 of the Penal Code is amended to
- 2 read:
- 3 602. Except as provided in paragraph (2) of subdivision (v),
- 4 subdivision (x), and Section 602.8, every person who willfully
- 5 commits a trespass by any of the following acts is guilty of a
- 6 misdemeanor:
- 7 (a) Cutting down, destroying, or injuring any kind of wood or
- 8 timber standing or growing upon the lands of another.
- 9 (b) Carrying away any kind of wood or timber lying on those
- 10 lands.
- 11 (c) Maliciously injuring or severing from the freehold of another
- 12 anything attached to it, or its produce.
- 13 (d) Digging, taking, or carrying away from any lot situated
- 14 within the limits of any incorporated city, without the license of
- 15 the owner or legal occupant, any earth, soil, or stone.
- 16 (e) Digging, taking, or carrying away from land in any city or
- 17 town laid down on the map or plan of the city, or otherwise
- 18 recognized or established as a street, alley, avenue, or park, without
- 19 the license of the proper authorities, any earth, soil, or stone.
- 20 (f) Maliciously tearing down, damaging, mutilating, or
- 21 destroying any sign, signboard, or notice placed upon, or affixed
- 22 to, any property belonging to the state, or to any city, county, city
- 23 and county, town or village, or upon any property of any person,
- 24 by the state or by an automobile association, which sign, signboard
- 25 or notice is intended to indicate or designate a road, or a highway,
- 26 or is intended to direct travelers from one point to another, or
- 27 relates to fires, fire control, or any other matter involving the
- 28 protection of the property, or putting up, affixing, fastening,

1 printing, or painting upon any property belonging to the state, or
2 to any city, county, town, or village, or dedicated to the public, or
3 upon any property of any person, without license from the owner,
4 any notice, advertisement, or designation of, or any name for any
5 commodity, whether for sale or otherwise, or any picture, sign, or
6 device intended to call attention to it.

7 (g) Entering upon any lands owned by any other person whereon
8 oysters or other shellfish are planted or growing; or injuring,
9 gathering, or carrying away any oysters or other shellfish planted,
10 growing, or on any of those lands, whether covered by water or
11 not, without the license of the owner or legal occupant; or
12 damaging, destroying, or removing, or causing to be removed,
13 damaged, or destroyed, any stakes, marks, fences, or signs intended
14 to designate the boundaries and limits of any of those lands.

15 (h) (1) Entering upon lands or buildings owned by any other
16 person without the license of the owner or legal occupant, where
17 signs forbidding trespass are displayed, and whereon cattle, goats,
18 pigs, sheep, fowl, or any other animal is being raised, bred, fed,
19 or held for the purpose of food for human consumption; or injuring,
20 gathering, or carrying away any animal being housed on any of
21 those lands, without the license of the owner or legal occupant; or
22 damaging, destroying, or removing, or causing to be removed,
23 damaged, or destroyed, any stakes, marks, fences, or signs intended
24 to designate the boundaries and limits of any of those lands.

25 (2) In order for there to be a violation of this subdivision, the
26 trespass signs under paragraph (1) must be displayed at intervals
27 not less than three per mile along all exterior boundaries and at all
28 roads and trails entering the land.

29 (3) This subdivision shall not be construed to preclude
30 prosecution or punishment under any other provision of law,
31 including, but not limited to, grand theft or any provision that
32 provides for a greater penalty or longer term of imprisonment.

33 (i) Willfully opening, tearing down, or otherwise destroying
34 any fence on the enclosed land of another, or opening any gate,
35 bar, or fence of another and willfully leaving it open without the
36 written permission of the owner, or maliciously tearing down,
37 mutilating, or destroying any sign, signboard, or other notice
38 forbidding shooting on private property.

39 (j) Building fires upon any lands owned by another where signs
40 forbidding trespass are displayed at intervals not greater than one

1 mile along the exterior boundaries and at all roads and trails
2 entering the lands, without first having obtained written permission
3 from the owner of the lands or the owner's agent, or the person in
4 lawful possession.

5 (k) Entering any lands, whether unenclosed or enclosed by
6 fence, for the purpose of injuring any property or property rights
7 or with the intention of interfering with, obstructing, or injuring
8 any lawful business or occupation carried on by the owner of the
9 land, the owner's agent or by the person in lawful possession.

10 (l) Entering any lands under cultivation or enclosed by fence,
11 belonging to, or occupied by, another, or entering upon uncultivated
12 or unenclosed lands where signs forbidding trespass are displayed
13 at intervals not less than three to the mile along all exterior
14 boundaries and at all roads and trails entering the lands without
15 the written permission of the owner of the land, the owner's agent
16 or of the person in lawful possession, and

17 (1) Refusing or failing to leave the lands immediately upon
18 being requested by the owner of the land, the owner's agent or by
19 the person in lawful possession to leave the lands, or

20 (2) Tearing down, mutilating, or destroying any sign, signboard,
21 or notice forbidding trespass or hunting on the lands, or

22 (3) Removing, injuring, unlocking, or tampering with any lock
23 on any gate on or leading into the lands, or

24 (4) Discharging any firearm.

25 (m) Entering and occupying real property or structures of any
26 kind without the consent of the owner, the owner's agent, or the
27 person in lawful possession.

28 (n) Driving any vehicle, as defined in Section 670 of the Vehicle
29 Code, upon real property belonging to, or lawfully occupied by,
30 another and known not to be open to the general public, without
31 the consent of the owner, the owner's agent, or the person in lawful
32 possession. This subdivision shall not apply to any person described
33 in Section 22350 of the Business and Professions Code who is
34 making a lawful service of process, provided that upon exiting the
35 vehicle, the person proceeds immediately to attempt the service
36 of process, and leaves immediately upon completing the service
37 of process or upon the request of the owner, the owner's agent, or
38 the person in lawful possession.

39 (o) Refusing or failing to leave land, real property, or structures
40 belonging to or lawfully occupied by another and not open to the

1 general public, upon being requested to leave by (1) a peace officer
2 at the request of the owner, the owner's agent, or the person in
3 lawful possession, and upon being informed by the peace officer
4 that he or she is acting at the request of the owner, the owner's
5 agent, or the person in lawful possession, or (2) the owner, the
6 owner's agent, or the person in lawful possession. The owner, the
7 owner's agent, or the person in lawful possession shall make a
8 separate request to the peace officer on each occasion when the
9 peace officer's assistance in dealing with a trespass is requested.
10 However, a single request for a peace officer's assistance may be
11 made to cover a limited period of time not to exceed 30 days and
12 identified by specific dates, during which there is a fire hazard or
13 the owner, owner's agent or person in lawful possession is absent
14 from the premises or property. In addition, a single request for a
15 peace officer's assistance may be made for a period not to exceed
16 six months when the premises or property is closed to the public
17 and posted as being closed. However, this subdivision shall not
18 be applicable to persons engaged in lawful labor union activities
19 which are permitted to be carried out on the property by the
20 California Agricultural Labor Relations Act, Part 3.5 (commencing
21 with Section 1140) of Division 2 of the Labor Code, or by the
22 National Labor Relations Act. For purposes of this section, land,
23 real property, or structures owned or operated by any housing
24 authority for tenants as defined under Section 34213.5 of the Health
25 and Safety Code constitutes property not open to the general public;
26 however, this subdivision shall not apply to persons on the premises
27 who are engaging in activities protected by the California or United
28 States Constitution, or to persons who are on the premises at the
29 request of a resident or management and who are not loitering or
30 otherwise suspected of violating or actually violating any law or
31 ordinance.

32 (p) Entering upon any lands declared closed to entry as provided
33 in Section 4256 of the Public Resources Code, if the closed areas
34 shall have been posted with notices declaring the closure, at
35 intervals not greater than one mile along the exterior boundaries
36 or along roads and trails passing through the lands.

37 (q) Refusing or failing to leave a public building of a public
38 agency during those hours of the day or night when the building
39 is regularly closed to the public upon being requested to do so by
40 a regularly employed guard, watchman, or custodian of the public

1 agency owning or maintaining the building or property, if the
2 surrounding circumstances would indicate to a reasonable person
3 that the person has no apparent lawful business to pursue.

4 (r) Knowingly skiing in an area or on a ski trail which is closed
5 to the public and which has signs posted indicating the closure.

6 (s) Refusing or failing to leave a hotel or motel, where he or
7 she has obtained accommodations and has refused to pay for those
8 accommodations, upon request of the proprietor or manager, and
9 the occupancy is exempt, pursuant to subdivision (b) of Section
10 1940 of the Civil Code, from Chapter 2 (commencing with Section
11 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
12 purposes of this subdivision, occupancy at a hotel or motel for a
13 continuous period of 30 days or less shall, in the absence of a
14 written agreement to the contrary, or other written evidence of a
15 periodic tenancy of indefinite duration, be exempt from Chapter
16 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
17 3 of the Civil Code.

18 (t) (1) Entering upon private property, including contiguous
19 land, real property, or structures thereon belonging to the same
20 owner, whether or not generally open to the public, after having
21 been informed by a peace officer at the request of the owner, the
22 owner's agent, or the person in lawful possession, and upon being
23 informed by the peace officer that he or she is acting at the request
24 of the owner, the owner's agent, or the person in lawful possession,
25 that the property is not open to the particular person; or refusing
26 or failing to leave the property upon being asked to leave the
27 property in the manner provided in this subdivision.

28 ~~This~~

29 (2) *This* subdivision shall apply only to a person who has been
30 convicted of a crime committed upon the particular private
31 property. ~~A~~

32 (3) A single notification or request to the person as set forth
33 above shall be valid and enforceable under this subdivision unless
34 and until rescinded by the owner, the owner's agent, or the person
35 in lawful possession of the property.

36 (4) *Where the person has been convicted of a violent felony, as*
37 *described in subdivision (c) of Section 667.5, this subdivision shall*
38 *apply without time limitation. Where the person has been convicted*
39 *of any other felony, this subdivision shall apply for no more than*
40 *five years from the date of conviction. Where the person has been*

1 *convicted of a misdemeanor, this subdivision shall apply for no*
2 *more than two years from the date of conviction. Where the person*
3 *was convicted for an infraction pursuant to Section 490.1, this*
4 *subdivision shall apply for no more than one year from the date*
5 *of conviction. This subdivision shall not apply to convictions for*
6 *any other infraction.*

7 (u) (1) Knowingly entering, by an unauthorized person, upon
8 any airport or passenger vessel terminal operations area if the area
9 has been posted with notices restricting access to authorized
10 personnel only and the postings occur not greater than every 150
11 feet along the exterior boundary, to the extent, in the case of a
12 passenger vessel terminal, as defined in subparagraph (B) of
13 paragraph (3), that the exterior boundary extends shoreside. To
14 the extent that the exterior boundary of a passenger vessel terminal
15 operations area extends waterside, this prohibition shall apply if
16 notices have been posted in a manner consistent with the
17 requirements for the shoreside exterior boundary, or in any other
18 manner approved by the captain of the port.

19 (2) Any person convicted of a violation of paragraph (1) shall
20 be punished as follows:

21 (A) By a fine not exceeding one hundred dollars (\$100).

22 (B) By imprisonment in the county jail not exceeding six
23 months, or by a fine not exceeding one thousand dollars (\$1,000),
24 or both, if the person refuses to leave the airport or passenger vessel
25 terminal after being requested to leave by a peace officer or
26 authorized personnel.

27 (C) By imprisonment in the county jail not exceeding six
28 months, or by a fine not exceeding one thousand dollars (\$1,000),
29 or both, for a second or subsequent offense.

30 (3) As used in this subdivision the following definitions shall
31 control:

32 (A) "Airport operations area" means that part of the airport used
33 by aircraft for landing, taking off, surface maneuvering, loading
34 and unloading, refueling, parking, or maintenance, where aircraft
35 support vehicles and facilities exist, and which is not for public
36 use or public vehicular traffic.

37 (B) "Passenger vessel terminal" means only that portion of a
38 harbor or port facility, as described in Section 105.105(a)(2) of
39 Title 33 of the Code of Federal Regulations, with a secured area
40 that regularly serves scheduled commuter or passenger operations.

1 For the purposes of this section, “passenger vessel terminal” does
2 not include any area designated a public access area pursuant to
3 Section 105.106 of Title 33 of the Code of Federal Regulations.

4 (C) “Authorized personnel” means any person who has a valid
5 airport identification card issued by the airport operator or has a
6 valid airline identification card recognized by the airport operator,
7 or any person not in possession of an airport or airline identification
8 card who is being escorted for legitimate purposes by a person
9 with an airport or airline identification card. “Authorized
10 personnel” also means any person who has a valid port
11 identification card issued by the harbor operator, or who has a
12 valid company identification card issued by a commercial maritime
13 enterprise recognized by the harbor operator, or any other person
14 who is being escorted for legitimate purposes by a person with a
15 valid port or qualifying company identification card.

16 (D) “Airport” means any facility whose function is to support
17 commercial aviation.

18 (v) (1) Except as permitted by federal law, intentionally
19 avoiding submission to the screening and inspection of one’s
20 person and accessible property in accordance with the procedures
21 being applied to control access when entering or reentering a sterile
22 area of an airport or passenger vessel terminal, as defined in Section
23 171.5.

24 (2) A violation of this subdivision that is responsible for the
25 evacuation of an airport terminal or passenger vessel terminal and
26 is responsible in any part for delays or cancellations of scheduled
27 flights or departures is punishable by imprisonment of not more
28 than one year in a county jail if the sterile area is posted with a
29 statement providing reasonable notice that prosecution may result
30 from a trespass described in this subdivision.

31 (w) Refusing or failing to leave a battered women’s shelter at
32 any time after being requested to leave by a managing authority
33 of the shelter.

34 (1) A person who is convicted of violating this subdivision shall
35 be punished by imprisonment in a county jail for not more than
36 one year.

37 (2) The court may order a defendant who is convicted of
38 violating this subdivision to make restitution to a battered woman
39 in an amount equal to the relocation expenses of the battered

1 woman and her children if those expenses are incurred as a result
2 of trespass by the defendant at a battered women’s shelter.

3 (x) (1) Knowingly entering or remaining in a neonatal unit,
4 maternity ward, or birthing center located in a hospital or clinic
5 without lawful business to pursue therein, if the area has been
6 posted so as to give reasonable notice restricting access to those
7 with lawful business to pursue therein and the surrounding
8 circumstances would indicate to a reasonable person that he or she
9 has no lawful business to pursue therein. Reasonable notice is that
10 which would give actual notice to a reasonable person, and is
11 posted, at a minimum, at each entrance into the area.

12 (2) Any person convicted of a violation of paragraph (1) shall
13 be punished as follows:

14 (A) As an infraction, by a fine not exceeding one hundred dollars
15 (\$100).

16 (B) By imprisonment in a county jail not exceeding one year,
17 or by a fine not exceeding one thousand dollars (\$1,000), or both,
18 if the person refuses to leave the posted area after being requested
19 to leave by a peace officer or other authorized person.

20 (C) By imprisonment in a county jail not exceeding one year,
21 or by a fine not exceeding two thousand dollars (\$2,000), or both,
22 for a second or subsequent offense.

23 (D) If probation is granted or the execution or imposition of
24 sentencing is suspended for any person convicted under this
25 subdivision, it shall be a condition of probation that the person
26 participate in counseling, as designated by the court, unless the
27 court finds good cause not to impose this requirement. The court
28 shall require the person to pay for this counseling, if ordered, unless
29 good cause not to pay is shown.

30 (y) Except as permitted by federal law, intentionally avoiding
31 submission to the screening and inspection of one’s person and
32 accessible property in accordance with the procedures being applied
33 to control access when entering or reentering a courthouse or a
34 city, county, city and county, or state building if entrances to the
35 courthouse or the city, county, city and county, or state building
36 have been posted with a statement providing reasonable notice
37 that prosecution may result from a trespass described in this
38 subdivision.

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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