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**Introduced by Senator Block**

February 21, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1295, as introduced, Block. Trespass

Existing law makes it a unlawful for any person to willfully engage in certain acts of trespass, and punishes most trespass by a fine not exceeding \$1,000, imprisonment in county jail for a period not exceeding 6 months, or by both that fine and imprisonment.

This bill would make technical, nonsubstantive changes to the provisions proscribing the crime of trespass.

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

*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 subdivision (u), 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.

1 (d) Digging, taking, or carrying away from any lot situated  
2 within the limits of any incorporated city, without the license of  
3 the owner or legal occupant, any earth, soil, or stone.

4 (e) Digging, taking, or carrying away from land in any city or  
5 town laid down on the map or plan of the city, or otherwise  
6 recognized or established as a street, alley, avenue, or park, without  
7 the license of the proper authorities, any earth, soil, or stone.

8 (f) Maliciously tearing down, damaging, mutilating, or  
9 destroying any sign, signboard, or notice placed upon, or affixed  
10 to, any property belonging to the state, or to any city, county, city  
11 and county, town or village, or upon any property of any person,  
12 by the state or by an automobile association, which sign, signboard,  
13 or notice is intended to indicate or designate a road or a highway,  
14 or is intended to direct travelers from one point to another, or  
15 relates to fires, fire control, or any other matter involving the  
16 protection of the property, or putting up, affixing, fastening,  
17 printing, or painting upon any property belonging to the state, or  
18 to any city, county, town, or village, or dedicated to the public, or  
19 upon any property of any person, without license from the owner,  
20 any notice, advertisement, or designation of, or any name for any  
21 commodity, whether for sale or otherwise, or any picture, sign, or  
22 device intended to call attention to it.

23 (g) Entering upon any lands owned by any other person whereon  
24 oysters or other shellfish are planted or growing; or injuring,  
25 gathering, or carrying away any oysters or other shellfish planted,  
26 growing, or on any of those lands, whether covered by water or  
27 not, without the license of the owner or legal occupant; or  
28 damaging, destroying, or removing, or causing to be removed,  
29 damaged, or destroyed, any stakes, marks, fences, or signs intended  
30 to designate the boundaries and limits of any of those lands.

31 (h) (1) Entering upon lands or buildings owned by any other  
32 person without the license of the owner or legal occupant, where  
33 signs forbidding trespass are displayed, and whereon cattle, goats,  
34 pigs, sheep, fowl, or any other animal is being raised, bred, fed,  
35 or held for the purpose of food for human consumption; or injuring,  
36 gathering, or carrying away any animal being housed on any of  
37 those lands, without the license of the owner or legal occupant; or  
38 damaging, destroying, or removing, or causing to be removed,  
39 damaged, or destroyed, any stakes, marks, fences, or signs intended  
40 to designate the boundaries and limits of any of those lands.

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

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

9 (i) Willfully opening, tearing down, or otherwise destroying  
10 any fence on the enclosed land of another, or opening any gate,  
11 bar, or fence of another and willfully leaving it open without the  
12 written permission of the owner, or maliciously tearing down,  
13 mutilating, or destroying any sign, signboard, or other notice  
14 forbidding shooting on private property.

15 (j) Building fires upon any lands owned by another where signs  
16 forbidding trespass are displayed at intervals not greater than one  
17 mile along the exterior boundaries and at all roads and trails  
18 entering the lands, without first having obtained written permission  
19 from the owner of the lands or the owner's agent, or the person in  
20 lawful possession.

21 (k) Entering any lands, whether unenclosed or enclosed by  
22 fence, for the purpose of injuring any property or property rights  
23 or with the intention of interfering with, obstructing, or injuring  
24 any lawful business or occupation carried on by the owner of the  
25 land, the owner's agent, or by the person in lawful possession.

26 (l) Entering any lands under cultivation or enclosed by fence,  
27 belonging to, or occupied by, another, or entering upon uncultivated  
28 or unenclosed lands where signs forbidding trespass are displayed  
29 at intervals not less than three to the mile along all exterior  
30 boundaries and at all roads and trails entering the lands without  
31 the written permission of the owner of the land, *or* the owner's  
32 agent, or of the person in lawful possession, and *any of the*  
33 *following*:

34 (1) Refusing or failing to leave the lands immediately upon  
35 being requested by the owner of the land, the owner's agent or by  
36 the person in lawful possession to leave the lands; ~~or~~.

37 (2) Tearing down, mutilating, or destroying any sign, signboard,  
38 or notice forbidding trespass or hunting on the lands; ~~or~~.

39 (3) Removing, injuring, unlocking, or tampering with any lock  
40 on any gate on or leading into the lands; ~~or~~.

1 (4) Discharging any firearm.

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

5 (n) Driving any vehicle, as defined in Section 670 of the Vehicle  
6 Code, upon real property belonging to, or lawfully occupied by,  
7 another and known not to be open to the general public, without  
8 the consent of the owner, the owner's agent, or the person in lawful  
9 possession. This subdivision shall not apply to any person described  
10 in Section 22350 of the Business and Professions Code who is  
11 making a lawful service of process, provided that upon exiting the  
12 vehicle, the person proceeds immediately to attempt the service  
13 of process, and leaves immediately upon completing the service  
14 of process or upon the request of the owner, the owner's agent, or  
15 the person in lawful possession.

16 (o) Refusing or failing to leave land, real property, or structures  
17 belonging to or lawfully occupied by another and not open to the  
18 general public, upon being requested to leave by (1) a peace officer  
19 at the request of the owner, the owner's agent, or the person in  
20 lawful possession, and upon being informed by the peace officer  
21 that he or she is acting at the request of the owner, the owner's  
22 agent, or the person in lawful possession, or (2) the owner, the  
23 owner's agent, or the person in lawful possession. The owner, the  
24 owner's agent, or the person in lawful possession shall make a  
25 separate request to the peace officer on each occasion when the  
26 peace officer's assistance in dealing with a trespass is requested.  
27 However, a single request for a peace officer's assistance may be  
28 made to cover a limited period of time not to exceed 30 days and  
29 identified by specific dates, during which there is a fire hazard or  
30 the owner, owner's agent, or person in lawful possession is absent  
31 from the premises or property. In addition, a single request for a  
32 peace officer's assistance may be made for a period not to exceed  
33 six months when the premises or property is closed to the public  
34 and posted as being closed. However, this subdivision shall not  
35 be applicable to persons engaged in lawful labor union activities  
36 which are permitted to be carried out on the property by the  
37 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations  
38 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division  
39 2 of the Labor Code) or by the *federal* National Labor Relations  
40 Act. For purposes of this section, land, real property, or structures

1 owned or operated by any housing authority for tenants as defined  
2 under Section 34213.5 of the Health and Safety Code constitutes  
3 property not open to the general public; however, this subdivision  
4 shall not apply to persons on the premises who are engaging in  
5 activities protected by the California or United States Constitution,  
6 or to persons who are on the premises at the request of a resident  
7 or management and who are not loitering or otherwise suspected  
8 of violating or actually violating any law or ordinance.

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

14 (q) Refusing or failing to leave a public building of a public  
15 agency during those hours of the day or night when the building  
16 is regularly closed to the public upon being requested to do so by  
17 a regularly employed guard, watchperson, or custodian of the  
18 public agency owning or maintaining the building or property, if  
19 the surrounding circumstances would indicate to a reasonable  
20 person that the person has no apparent lawful business to pursue.

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

23 (s) Refusing or failing to leave a hotel or motel, where he or  
24 she has obtained accommodations and has refused to pay for those  
25 accommodations, upon request of the proprietor or manager, and  
26 the occupancy is exempt, pursuant to subdivision (b) of Section  
27 1940 of the Civil Code, from Chapter 2 (commencing with Section  
28 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For  
29 purposes of this subdivision, occupancy at a hotel or motel for a  
30 continuous period of 30 days or less shall, in the absence of a  
31 written agreement to the contrary, or other written evidence of a  
32 periodic tenancy of indefinite duration, be exempt from Chapter  
33 2 (commencing with Section 1940) of Title 5 of Part 4 of Division  
34 3 of the Civil Code.

35 (t) (1) Entering upon private property, including contiguous  
36 land, real property, or structures thereon belonging to the same  
37 owner, whether or not generally open to the public, after having  
38 been informed by a peace officer at the request of the owner, the  
39 owner's agent, or the person in lawful possession, and upon being  
40 informed by the peace officer that he or she is acting at the request

1 of the owner, the owner’s agent, or the person in lawful possession,  
2 that the property is not open to the particular person; or refusing  
3 or failing to leave the property upon being asked to leave the  
4 property in the manner provided in this subdivision.

5 (2) This subdivision shall apply only to a person who has been  
6 convicted of a crime committed upon the particular private  
7 property.

8 (3) A single notification or request to the person as set forth  
9 above shall be valid and enforceable under this subdivision unless  
10 and until rescinded by the owner, the owner’s agent, or the person  
11 in lawful possession of the property.

12 (4) Where the person has been convicted of a violent felony, as  
13 described in subdivision (c) of Section 667.5, this subdivision shall  
14 apply without time limitation. Where the person has been convicted  
15 of any other felony, this subdivision shall apply for no more than  
16 five years from the date of conviction. Where the person has been  
17 convicted of a misdemeanor, this subdivision shall apply for no  
18 more than two years from the date of conviction. Where the person  
19 was convicted for an infraction pursuant to Section 490.1, this  
20 subdivision shall apply for no more than one year from the date  
21 of conviction. This subdivision shall not apply to convictions for  
22 any other infraction.

23 (u) (1) Knowingly entering, by an unauthorized person, upon  
24 any airport operations area, passenger vessel terminal, or public  
25 transit facility if the area has been posted with notices restricting  
26 access to authorized personnel only and the postings occur not  
27 greater than every 150 feet along the exterior boundary, to the  
28 extent, in the case of a passenger vessel terminal, as defined in  
29 subparagraph (B) of paragraph (3), that the exterior boundary  
30 extends shoreside. To the extent that the exterior boundary of a  
31 passenger vessel terminal operations area extends waterside, this  
32 prohibition shall apply if notices have been posted in a manner  
33 consistent with the requirements for the shoreside exterior  
34 boundary, or in any other manner approved by the captain of the  
35 port.

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

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

39 (B) By imprisonment in a county jail not exceeding six months,  
40 or by a fine not exceeding one thousand dollars (\$1,000), or by

1 both that fine and imprisonment, if the person refuses to leave the  
2 airport or passenger vessel terminal after being requested to leave  
3 by a peace officer or authorized personnel.

4 (C) By imprisonment in a county jail not exceeding six months,  
5 or by a fine not exceeding one thousand dollars (\$1,000), or by  
6 both that fine and imprisonment, for a second or subsequent  
7 offense.

8 (3) As used in this subdivision, the following definitions shall  
9 control:

10 (A) “Airport operations area” means that part of the airport used  
11 by aircraft for landing, taking off, surface maneuvering, loading  
12 and unloading, refueling, parking, or maintenance, where aircraft  
13 support vehicles and facilities exist, and which is not for public  
14 use or public vehicular traffic.

15 (B) “Passenger vessel terminal” means only that portion of a  
16 harbor or port facility, as described in Section 105.105(a)(2) of  
17 Title 33 of the Code of Federal Regulations, with a secured area  
18 that regularly serves scheduled commuter or passenger operations.  
19 For the purposes of this section, “passenger vessel terminal” does  
20 not include any area designated a public access area pursuant to  
21 Section 105.106 of Title 33 of the Code of Federal Regulations.

22 (C) “Public transit facility” has the same meaning as specified  
23 in Section 171.7.

24 (D) “Authorized personnel” means any person who has a valid  
25 airport identification card issued by the airport operator or has a  
26 valid airline identification card recognized by the airport operator,  
27 or any person not in possession of an airport or airline identification  
28 card who is being escorted for legitimate purposes by a person  
29 with an airport or airline identification card. “Authorized  
30 personnel” also means any person who has a valid port  
31 identification card issued by the harbor operator, or who has a  
32 valid company identification card issued by a commercial maritime  
33 enterprise recognized by the harbor operator, or any other person  
34 who is being escorted for legitimate purposes by a person with a  
35 valid port or qualifying company identification card. “Authorized  
36 personnel” also means any person who has a valid public transit  
37 employee identification.

38 (E) “Airport” means any facility whose function is to support  
39 commercial aviation.

1 (v) (1) Except as permitted by federal law, intentionally  
2 avoiding submission to the screening and inspection of one's  
3 person and accessible property in accordance with the procedures  
4 being applied to control access when entering or reentering a sterile  
5 area of an airport, passenger vessel terminal, as defined in Section  
6 171.5, or public transit facility, as defined in subdivision (u), if  
7 the sterile area is posted with a statement providing reasonable  
8 notice that prosecution may result from a trespass described in this  
9 subdivision, is a violation of this subdivision, punishable by a fine  
10 of not more than five hundred dollars (\$500) for the first offense.  
11 A second and subsequent violation is a misdemeanor, punishable  
12 by imprisonment in a county jail for a period of not more than one  
13 year, or by a fine not to exceed one thousand dollars (\$1,000), or  
14 by both that fine and imprisonment.

15 (2) Notwithstanding paragraph (1), if a first violation of this  
16 subdivision is responsible for the evacuation of an airport terminal,  
17 passenger vessel terminal, or public transit facility and is  
18 responsible in any part for delays or cancellations of scheduled  
19 flights or departures, it is punishable by imprisonment of not more  
20 than one year in a county jail.

21 (w) Refusing or failing to leave a battered women's shelter at  
22 any time after being requested to leave by a managing authority  
23 of the shelter.

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

27 (2) The court may order a defendant who is convicted of  
28 violating this subdivision to make restitution to a battered woman  
29 in an amount equal to the relocation expenses of the battered  
30 woman and her children if those expenses are incurred as a result  
31 of trespass by the defendant at a battered women's shelter.

32 (x) (1) Knowingly entering or remaining in a neonatal unit,  
33 maternity ward, or birthing center located in a hospital or clinic  
34 without lawful business to pursue therein, if the area has been  
35 posted so as to give reasonable notice restricting access to those  
36 with lawful business to pursue therein and the surrounding  
37 circumstances would indicate to a reasonable person that he or she  
38 has no lawful business to pursue therein. Reasonable notice is that  
39 which would give actual notice to a reasonable person, and is  
40 posted, at a minimum, at each entrance into the area.

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

3 (A) As an infraction, by a fine not exceeding one hundred dollars  
4 (\$100).

5 (B) By imprisonment in a county jail not exceeding one year,  
6 or by a fine not exceeding one thousand dollars (\$1,000), or by  
7 both that fine and imprisonment, if the person refuses to leave the  
8 posted area after being requested to leave by a peace officer or  
9 other authorized person.

10 (C) By imprisonment in a county jail not exceeding one year,  
11 or by a fine not exceeding two thousand dollars (\$2,000), or by  
12 both that fine and imprisonment, for a second or subsequent  
13 offense.

14 (D) If probation is granted or the execution or imposition of  
15 sentencing is suspended for any person convicted under this  
16 subdivision, it shall be a condition of probation that the person  
17 participate in counseling, as designated by the court, unless the  
18 court finds good cause not to impose this requirement. The court  
19 shall require the person to pay for this counseling, if ordered, unless  
20 good cause not to pay is shown.

21 (y) Except as permitted by federal law, intentionally avoiding  
22 submission to the screening and inspection of one's person and  
23 accessible property in accordance with the procedures being applied  
24 to control access when entering or reentering a courthouse or a  
25 city, county, city and county, or state building if entrances to the  
26 courthouse or the city, county, city and county, or state building  
27 have been posted with a statement providing reasonable notice  
28 that prosecution may result from a trespass described in this  
29 subdivision.

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