

Introduced by Senator Block

February 21, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1295, as amended, Block. ~~Trespass~~ *Trespass: requests for law enforcement assistance.*

Existing law makes it unlawful for a person to trespass by refusing or failing to leave land, real property, or a structure belonging to or lawfully occupied by another and not open to the general public, upon being asked to leave by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession. Existing law requires that a separate request to the peace officer be made on each occasion, except that a single request for a peace officer's assistance may be made for a period not to exceed 6 months when the premises or property is closed to the public and posted as being closed.

This bill would remove that 6-month limit, and would instead make the request for a peace officer's assistance valid for the entire period in which the premises or property is closed to the public and posted as being closed.

~~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.
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,
29 printing, or painting upon any property belonging to the state, or
30 to any city, county, town, or village, or dedicated to the public, or
31 upon any property of any person, without license from the owner,
32 any notice, advertisement, or designation of, or any name for any
33 commodity, whether for sale or otherwise, or any picture, sign, or
34 device intended to call attention to it.

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

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

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

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

27 (i) Willfully opening, tearing down, or otherwise destroying
28 any fence on the enclosed land of another, or opening any gate,
29 bar, or fence of another and willfully leaving it open without the
30 written permission of the owner, or maliciously tearing down,
31 mutilating, or destroying any sign, signboard, or other notice
32 forbidding shooting on private property.

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

39 (k) Entering any lands, whether unenclosed or enclosed by
40 fence, for the purpose of injuring any property or property rights

1 or with the intention of interfering with, obstructing, or injuring
2 any lawful business or occupation carried on by the owner of the
3 land, the owner's agent, or by the person in lawful possession.

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

12 (1) Refusing or failing to leave the lands immediately upon
13 being requested by the owner of the land, the owner's agent or by
14 the person in lawful possession to leave the lands.

15 (2) Tearing down, mutilating, or destroying any sign, signboard,
16 or notice forbidding trespass or hunting on the lands.

17 (3) Removing, injuring, unlocking, or tampering with any lock
18 on any gate on or leading into the lands.

19 (4) Discharging any firearm.

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

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

34 (o) Refusing or failing to leave land, real property, or structures
35 belonging to or lawfully occupied by another and not open to the
36 general public, upon being requested to leave by (1) a peace officer
37 at the request of the owner, the owner's agent, or the person in
38 lawful possession, and upon being informed by the peace officer
39 that he or she is acting at the request of the owner, the owner's
40 agent, or the person in lawful possession, or (2) the owner, the

1 owner's agent, or the person in lawful possession. The owner, the
2 owner's agent, or the person in lawful possession shall make a
3 separate request to the peace officer on each occasion when the
4 peace officer's assistance in dealing with a trespass is requested.
5 However, a single request for a peace officer's assistance may be
6 made to cover a limited period of time not to exceed 30 days and
7 identified by specific dates, during which there is a fire hazard or
8 the owner, owner's agent, or person in lawful possession is absent
9 from the premises or property. In addition, a single request for a
10 peace officer's assistance may be made for ~~a~~ *the* period ~~not to~~
11 ~~exceed six months when in which~~ the premises or property is closed
12 to the public and posted as being closed. However, this subdivision
13 shall not be applicable to persons engaged in lawful labor union
14 activities which are permitted to be carried out on the property by
15 the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor
16 Relations Act of 1975 (Part 3.5 (commencing with Section 1140)
17 of Division 2 of the Labor Code) or by the federal National Labor
18 Relations Act. For purposes of this section, land, real property, or
19 structures owned or operated by any housing authority for tenants
20 as defined under Section 34213.5 of the Health and Safety Code
21 constitutes property not open to the general public; however, this
22 subdivision shall not apply to persons on the premises who are
23 engaging in activities protected by the California or United States
24 Constitution, or to persons who are on the premises at the request
25 of a resident or management and who are not loitering or otherwise
26 suspected of violating or actually violating any law or ordinance.

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

32 (q) Refusing or failing to leave a public building of a public
33 agency during those hours of the day or night when the building
34 is regularly closed to the public upon being requested to do so by
35 a regularly employed guard, watchperson, or custodian of the
36 public agency owning or maintaining the building or property, if
37 the surrounding circumstances would indicate to a reasonable
38 person that the person has no apparent lawful business to pursue.

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

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

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

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

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

30 (4) Where the person has been convicted of a violent felony, as
31 described in subdivision (c) of Section 667.5, this subdivision shall
32 apply without time limitation. Where the person has been convicted
33 of any other felony, this subdivision shall apply for no more than
34 five years from the date of conviction. Where the person has been
35 convicted of a misdemeanor, this subdivision shall apply for no
36 more than two years from the date of conviction. Where the person
37 was convicted for an infraction pursuant to Section 490.1, this
38 subdivision shall apply for no more than one year from the date
39 of conviction. This subdivision shall not apply to convictions for
40 any other infraction.

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

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

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

17 (B) By imprisonment in a county jail not exceeding six months,
18 or by a fine not exceeding one thousand dollars (\$1,000), or by
19 both that fine and imprisonment, if the person refuses to leave the
20 airport or passenger vessel terminal after being requested to leave
21 by a peace officer or authorized personnel.

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

26 (3) As used in this subdivision, the following definitions shall
27 control:

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

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

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

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

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

19 (v) (1) Except as permitted by federal law, intentionally
20 avoiding submission to the screening and inspection of one’s
21 person and accessible property in accordance with the procedures
22 being applied to control access when entering or reentering a sterile
23 area of an airport, passenger vessel terminal, as defined in Section
24 171.5, or public transit facility, as defined in subdivision (u), if
25 the sterile area is posted with a statement providing reasonable
26 notice that prosecution may result from a trespass described in this
27 subdivision, is a violation of this subdivision, punishable by a fine
28 of not more than five hundred dollars (\$500) for the first offense.
29 A second and subsequent violation is a misdemeanor, punishable
30 by imprisonment in a county jail for a period of not more than one
31 year, or by a fine not to exceed one thousand dollars (\$1,000), or
32 by both that fine and imprisonment.

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

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

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

7 (2) The court may order a defendant who is convicted of
8 violating this subdivision to make restitution to a battered woman
9 in an amount equal to the relocation expenses of the battered
10 woman and her children if those expenses are incurred as a result
11 of trespass by the defendant at a battered women’s shelter.

12 (x) (1) Knowingly entering or remaining in a neonatal unit,
13 maternity ward, or birthing center located in a hospital or clinic
14 without lawful business to pursue therein, if the area has been
15 posted so as to give reasonable notice restricting access to those
16 with lawful business to pursue therein and the surrounding
17 circumstances would indicate to a reasonable person that he or she
18 has no lawful business to pursue therein. Reasonable notice is that
19 which would give actual notice to a reasonable person, and is
20 posted, at a minimum, at each entrance into the area.

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

23 (A) As an infraction, by a fine not exceeding one hundred dollars
24 (\$100).

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

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

34 (D) If probation is granted or the execution or imposition of
35 sentencing is suspended for any person convicted under this
36 subdivision, it shall be a condition of probation that the person
37 participate in counseling, as designated by the court, unless the
38 court finds good cause not to impose this requirement. The court
39 shall require the person to pay for this counseling, if ordered, unless
40 good cause not to pay is shown.

1 (y) Except as permitted by federal law, intentionally avoiding
2 submission to the screening and inspection of one's person and
3 accessible property in accordance with the procedures being applied
4 to control access when entering or reentering a courthouse or a
5 city, county, city and county, or state building if entrances to the
6 courthouse or the city, county, city and county, or state building
7 have been posted with a statement providing reasonable notice
8 that prosecution may result from a trespass described in this
9 subdivision.

O