

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1295

**Introduced by Senator Block
(Coauthor: Senator Anderson)**

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: 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~~ *a period of one year* during which the premises or property is closed to the public and posted as being closed. The bill would require the requestor to inform the law enforcement agency to which the request was made when the assistance is no longer ~~desired~~ *desired, before the one year period expires*. The bill would also provide that the request

for assistance expires upon transfer of ownership of the property or upon a change in the person in lawful possession.

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

1 commodity, whether for sale or otherwise, or any picture, sign, or
2 device intended to call attention to it.

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

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

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

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

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

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

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

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

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

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

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

21 (4) Discharging any firearm.

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

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

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

1 officer that he or she is acting at the request of the owner, the
2 owner's agent, or the person in lawful possession, or (2) the owner,
3 the owner's agent, or the person in lawful possession. The owner,
4 the owner's agent, or the person in lawful possession shall make
5 a separate request to the peace officer on each occasion when the
6 peace officer's assistance in dealing with a trespass is requested.
7 However, a single request for a peace officer's assistance may be
8 made to cover a limited period of time not to exceed 30 days and
9 identified by specific dates, during which there is a fire hazard or
10 the owner, owner's agent, or person in lawful possession is absent
11 from the premises or property. In addition, a single request for a
12 peace officer's assistance may be made ~~for the period~~ *a period of*
13 *one year* during which the premises or property is closed to the
14 public and posted as being closed. The requestor shall inform the
15 law enforcement agency to which the request was made when the
16 assistance is no longer ~~desired~~. *desired, before the one year period*
17 *expires*. The request for assistance shall expire upon transfer of
18 ownership of the property or upon a change in the person in lawful
19 possession. However, this subdivision shall not be applicable to
20 persons engaged in lawful labor union activities which are
21 permitted to be carried out on the property by the
22 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
23 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
24 2 of the Labor Code) or by the federal National Labor Relations
25 Act. For purposes of this section, land, real property, or structures
26 owned or operated by any housing authority for tenants as defined
27 under Section 34213.5 of the Health and Safety Code constitutes
28 property not open to the general public; however, this subdivision
29 shall not apply to persons on the premises who are engaging in
30 activities protected by the California or United States Constitution,
31 or to persons who are on the premises at the request of a resident
32 or management and who are not loitering or otherwise suspected
33 of violating or actually violating any law or ordinance.

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

39 (q) Refusing or failing to leave a public building of a public
40 agency during those hours of the day or night when the building

1 is regularly closed to the public upon being requested to do so by
2 a regularly employed guard, watchperson, or custodian of the
3 public agency owning or maintaining the building or property, if
4 the surrounding circumstances would indicate to a reasonable
5 person that the person has no apparent lawful business to pursue.

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

8 (s) Refusing or failing to leave a hotel or motel, where he or
9 she has obtained accommodations and has refused to pay for those
10 accommodations, upon request of the proprietor or manager, and
11 the occupancy is exempt, pursuant to subdivision (b) of Section
12 1940 of the Civil Code, from Chapter 2 (commencing with Section
13 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
14 purposes of this subdivision, occupancy at a hotel or motel for a
15 continuous period of 30 days or less shall, in the absence of a
16 written agreement to the contrary, or other written evidence of a
17 periodic tenancy of indefinite duration, be exempt from Chapter
18 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
19 3 of the Civil Code.

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

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

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

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

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

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

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

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

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

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

33 (3) As used in this subdivision, the following definitions shall
34 control:

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

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

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

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

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

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

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

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

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

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

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

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

29 (A) As an infraction, by a fine not exceeding one hundred dollars
30 (\$100).

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

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

1 (D) If probation is granted or the execution or imposition of
2 sentencing is suspended for any person convicted under this
3 subdivision, it shall be a condition of probation that the person
4 participate in counseling, as designated by the court, unless the
5 court finds good cause not to impose this requirement. The court
6 shall require the person to pay for this counseling, if ordered, unless
7 good cause not to pay is shown.
8 (y) Except as permitted by federal law, intentionally avoiding
9 submission to the screening and inspection of one's person and
10 accessible property in accordance with the procedures being applied
11 to control access when entering or reentering a courthouse or a
12 city, county, city and county, or state building if entrances to the
13 courthouse or the city, county, city and county, or state building
14 have been posted with a statement providing reasonable notice
15 that prosecution may result from a trespass described in this
16 subdivision.

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