

ASSEMBLY BILL NO. 11—COMMITTEE ON JUDICIARY

(ON BEHALF OF LEGISLATIVE COMMITTEE TO
STUDY CATEGORIES OF MISDEMEANORS
(ACR 2 OF THE 17TH SPECIAL SESSION))

PREFILED JANUARY 27, 2003

Referred to Committee on Judiciary

SUMMARY—Provides increased penalty for certain repeat offenses involving vandalism. (BDR 15-191)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to vandalism; providing an increased penalty for certain repeat offenses involving vandalism; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 206.330 is hereby amended to read as follows:
- 2 206.330 1. ~~Unless a greater criminal penalty is provided by~~
- 3 ~~a specific statute, a person who places~~ *A person shall not*
- 4 *vandalize, place* graffiti on , *deface* or otherwise ~~defaces~~ *damage*
- 5 the public or private property, real or personal, of another, without
- 6 the permission of the owner . ~~is guilty of a public offense, as~~
- 7 ~~prescribed in NRS 193.155, proportionate to the value of the~~
- 8 ~~property damaged or destroyed and in no event less than a~~
- 9 ~~misdemeanor.]~~
- 10 2. *Unless a greater criminal penalty is provided by a specific*
- 11 *statute, a person who violates subsection 1:*
- 12 (a) *For the first offense:*
- 13 (1) *Unless the provisions of subsection 3 apply, where the*
- 14 *value of the loss is less than \$250, is guilty of a misdemeanor.*



- 1 (2) *Where the value of the loss is \$250 or more but less*
- 2 *than \$5,000, is guilty of a gross misdemeanor.*
- 3 (3) *Where the value of the loss is \$5,000 or more or where*
- 4 *the damage results in the impairment of public communication,*
- 5 *transportation or police and fire protection, is guilty of a category*
- 6 *C felony and shall be punished as provided in NRS 193.130.*
- 7 (b) *For the second and each subsequent offense:*
- 8 (1) *Where the value of the loss is less than \$5,000, is guilty*
- 9 *of a category E felony and shall be punished as provided in*
- 10 *NRS 193.130.*
- 11 (2) *Where the value of the loss is \$5,000 or more or where*
- 12 *the damage results in the impairment of public communication,*
- 13 *transportation or police and fire protection, is guilty of a category*
- 14 *C felony and shall be punished as provided in NRS 193.130.*
- 15 3. *Unless a greater penalty is provided in subsection 2, a*
- 16 *person who commits a violation of subsection 1 involving*
- 17 *protected property is guilty of a gross misdemeanor.*
- 18 4. A person who violates subsection 1 shall, in addition to any
- 19 other fine or penalty imposed:
- 20 (a) For the first offense, perform not less than 50 hours, but not
- 21 more than 99 hours, of community service.
- 22 (b) For the second offense, perform not less than 100 hours, but
- 23 not more than 199 hours, of community service.
- 24 (c) For the third and each subsequent offense, perform not less
- 25 than 200 hours of community service.
- 26 The community service assigned pursuant to this subsection must, if
- 27 possible, be related to the abatement of graffiti.
- 28 ~~[3.]~~ 5. The parent or legal guardian of a person under the age of
- 29 17 years who violates this section is liable for all fines and penalties
- 30 imposed against the person. If the parent or legal guardian is unable
- 31 to pay the fine and penalties resulting from a violation of this
- 32 section because of financial hardship, the court may require the
- 33 parent or legal guardian to perform community service.
- 34 ~~[4.]~~ 6. If a person who is 18 years of age or older is found
- 35 guilty of violating this section, the court may issue an order
- 36 suspending the driver's license of the person for a period not to
- 37 exceed 6 months in addition to any other penalty imposed. If such
- 38 an order is issued, the court shall require the person to surrender all
- 39 driver's licenses then held by the person. If the person does not
- 40 possess a driver's license, the court may issue an order prohibiting
- 41 the person from applying for a driver's license within the 6 months
- 42 immediately following the date of the order. The court shall, within
- 43 5 days after issuing the order, forward to the Department of Motor
- 44 Vehicles any licenses together with a copy of the order.
- 45 ~~[5.]~~ 7. The Department of Motor Vehicles:



1 (a) Shall not treat a violation of this section in the manner
2 statutorily required for a moving traffic violation.

3 (b) Shall report the suspension of a driver's license pursuant to
4 this section to an insurance company or its agent inquiring about the
5 person's driving record. An insurance company shall not use any
6 information obtained pursuant to this paragraph for purposes related
7 to establishing premium rates or determining whether to underwrite
8 the insurance.

9 ~~[6.]~~ 8. A criminal penalty imposed pursuant to this section is in
10 addition to any civil penalty or other remedy available pursuant to
11 another statute for the same conduct.

12 9. *As used in this section, "protected property" includes:*

13 (a) *Any church, synagogue, or other building, structure or*
14 *place used for religious worship or other religious purpose;*

15 (b) *Any cemetery, mortuary or other facility used for the*
16 *purpose of burial or memorializing the dead;*

17 (c) *Any school, educational facility or community center;*

18 (d) *The grounds adjacent to, and owned or rented by, any*
19 *institution, facility, building, structure or place described in*
20 *paragraph (a), (b) or (c); or*

21 (e) *Any personal property contained in any institution, facility,*
22 *building, structure or place described in paragraph (a), (b) or (c).*

23 **Sec. 2.** NRS 206.340 is hereby amended to read as follows:

24 206.340 1. The Graffiti Reward Fund is hereby created in the
25 State General Fund.

26 2. When a defendant pleads or is found guilty of violating NRS
27 ~~[206.125 or]~~ 206.330, the court shall include an administrative
28 assessment of \$250 for each violation in addition to any other fine
29 or penalty. The money collected must be paid by the clerk of the
30 court to the State Controller on or before the fifth day of each month
31 for the preceding month for credit to the Graffiti Reward Fund.

32 3. All money received pursuant to subsection 2 must be
33 deposited with the State Controller for credit to the Graffiti Reward
34 Fund. The money in the Fund must be used to pay a reward to a
35 person who, in response to the offer of a reward, provides
36 information which results in the identification, apprehension and
37 conviction of a person who violates NRS ~~[206.125 or]~~ 206.330.

38 4. If sufficient money is available in the Graffiti Reward Fund,
39 a state law enforcement agency may offer a reward, not to exceed
40 \$1,000, for information leading to the identification, apprehension
41 and conviction of a person who violates NRS ~~[206.125 or]~~ 206.330.
42 The reward must be paid out of the Graffiti Reward Fund upon
43 approval by the State Board of Examiners.



1 **Sec. 3.** NRS 62.226 is hereby amended to read as follows:
2 62.226 1. Except as otherwise provided in subsection 3,
3 whenever a child is found to have committed the unlawful act of
4 *vandalizing*, placing graffiti on , *defacing* or otherwise ~~defacing~~
5 *damaging* the public or private property, real or personal, of
6 another, in violation of NRS ~~206.125 or~~ 206.330, the judge, or his
7 authorized representative, may, if the child possesses a driver's
8 license, issue an order suspending the driver's license of the child
9 for at least 90 days but not more than 2 years. If such an order is
10 issued, the judge shall require the child to surrender his driver's
11 license to the court.

12 2. If the child does not possess a driver's license and the child
13 is or will be eligible to receive a driver's license within the 2 years
14 immediately following the date of the order, the judge, or his
15 authorized representative, may issue an order prohibiting the child
16 from applying for a driver's license for a period specified by the
17 court which must be at least 90 days but not more than 2 years:

18 (a) Immediately following the date of the order, if the child is
19 eligible to receive a driver's license.

20 (b) After the date the child will be eligible to receive a driver's
21 license, if the child is not eligible to receive a license on the date of
22 the order.

23 3. If a child is already the subject of a court order suspending
24 or delaying the issuance of his driver's license, the court shall order
25 the additional suspension or delay, as appropriate, to apply
26 consecutively with the previous order.

27 **Sec. 4.** NRS 381.225 is hereby amended to read as follows:

28 381.225 1. ~~It is unlawful for any person to commit~~
29 ~~vandalism upon~~ *A person shall not vandalize, place graffiti on,*
30 *deface or otherwise damage* any historic or prehistoric sites, natural
31 monuments, speleological sites and objects of antiquity . ~~[, or to~~
32 ~~write or paint or carve initials or words, or in any other way deface,~~
33 ~~any of those objects, Indian paintings or historic buildings.]~~

34 2. Unless a greater penalty is provided in NRS ~~206.125,~~
35 *206.330*, a person violating the provisions of subsection 1 is guilty
36 of a public offense proportionate to the value of the property
37 damaged or destroyed as set forth in NRS 193.155.

38 3. *As used in this section, "graffiti" means any unauthorized*
39 *inscription, word, figure or design that is marked, etched,*
40 *scratched, drawn or painted on or affixed to the public or private*
41 *property, real or personal, of another, which defaces the property.*

42 **Sec. 5.** NRS 393.410 is hereby amended to read as follows:

43 393.410 1. It is unlawful for any person:

44 (a) Willfully and maliciously to injure, mark or deface any
45 public schoolhouse, its fixtures, books or appurtenances;



- 1 (b) To commit any nuisance in any public schoolhouse;
- 2 (c) To loiter on or near the school grounds; or
- 3 (d) Purposely and maliciously to commit any trespass upon the
- 4 grounds attached to a public schoolhouse, or any fixtures placed
- 5 thereon, or any enclosure or sidewalk about the same.
- 6 2. ~~Except~~ *Unless a greater penalty is provided in NRS*
- 7 *206.330 and except* as otherwise provided in subsection 3, any
- 8 person violating any of the provisions of this section is guilty of a
- 9 public offense, as prescribed in NRS 193.155, proportionate to the
- 10 value of the property damaged or destroyed and in no event less
- 11 than a misdemeanor.
- 12 3. Any person who is in possession of a dangerous weapon
- 13 during his commission of a violation of paragraph (b), (c) or (d) of
- 14 subsection 1 is guilty of a gross misdemeanor.
- 15 4. As used in this section:
- 16 (a) "Dangerous knife" means a knife having a blade that is 2
- 17 inches or more in length when measured from the tip of the knife
- 18 which is customarily sharpened to the unsharpened extension of the
- 19 blade which forms the hinge connecting the blade to the handle.
- 20 (b) "Dangerous weapon" means:
- 21 (1) An explosive or incendiary device;
- 22 (2) A dirk, dagger, switchblade knife or dangerous knife;
- 23 (3) A nunchaku or trefoil;
- 24 (4) A blackjack or billy club or metal knuckles; or
- 25 (5) A pistol, revolver or other firearm.
- 26 (c) "Explosive or incendiary device" has the meaning ascribed
- 27 to it in NRS 202.253.
- 28 (d) "Nunchaku" has the meaning ascribed to it in NRS 202.350.
- 29 (e) "Switchblade knife" has the meaning ascribed to it in
- 30 NRS 202.350.
- 31 (f) "Trefoil" has the meaning ascribed to it in NRS 202.350.
- 32 **Sec. 6.** NRS 394.180 is hereby amended to read as follows:
- 33 394.180 1. It is unlawful for any person:
- 34 (a) Willfully and maliciously to injure, mark or deface any
- 35 private schoolhouse, its fixtures, books or appurtenances;
- 36 (b) To commit any nuisance in any private schoolhouse;
- 37 (c) To loiter on or near the school grounds;
- 38 (d) Purposely and maliciously to commit any trespass upon the
- 39 grounds attached to a private schoolhouse, or any fixtures placed
- 40 thereon, or any enclosure or sidewalk about the same; or
- 41 (e) In any manner maliciously and purposely to interfere with or
- 42 disturb any persons peaceably assembled within a private
- 43 schoolhouse for school purposes.
- 44 2. Unless a greater penalty is provided ~~by NRS 206.125,~~ *in*
- 45 *NRS 206.330*, any person violating any of the provisions of



1 subsection 1 is guilty of a public offense, as prescribed in NRS
2 193.155, proportionate to the value of the property damaged or
3 destroyed and in no event less than a misdemeanor.

4 **Sec. 7.** NRS 452.305 is hereby amended to read as follows:

5 452.305 1. Unless a greater penalty is provided ~~by NRS~~
6 ~~206.125,] in NRS 206.330,~~ a person who:

7 (a) Willfully destroys, mutilates, defaces, injures or removes any
8 tomb, monument, gravestone, building or other structure placed in
9 any cemetery of any nonprofit corporation governed by the
10 provisions of chapter 82 of NRS formed for the purpose of
11 procuring and holding lands to be used exclusively for a cemetery or
12 place of burial of the dead;

13 (b) Willfully destroys, mutilates, defaces, injures or removes
14 any fence, railing or other work for the protection or ornament of
15 any cemetery of any such nonprofit corporation, or any tomb,
16 monument, gravestone, or any structure, plat or lot within the
17 cemetery; or

18 (c) Willfully destroys, cuts, breaks or injures any tree, shrub or
19 plant within the limits of any cemetery of such nonprofit
20 corporation,
21 is guilty of a misdemeanor.

22 2. An offender is also liable in an action of trespass to be
23 brought in all cases in the name of the nonprofit corporation, to pay
24 all damages which are occasioned by his unlawful act or acts. Any
25 money recovered must be applied by the trustees to the reparation or
26 restoration of the property which was destroyed or injured.

27 **Sec. 8.** NRS 206.125 is hereby repealed.

28 **Sec. 9.** The amendatory provisions of this act apply to offenses
29 committed before October 1, 2003, for the purpose of determining
30 whether a person is subject to the provisions of paragraph (b) of
31 subsection 2 of NRS 206.330, as amended by section 1 of this act.

TEXT OF REPEALED SECTION

**206.125 Damage of property used for religious or
educational purposes, for burial or memorializing dead or as
community center; damage of property contained therein.**

Unless a greater penalty is provided by law, a person who
knowingly vandalizes, places graffiti on, defaces or otherwise
damages:

1. Any church, synagogue or other building, structure or place
used for religious worship or other religious purpose;



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2. Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;
3. Any school, educational facility or community center;
4. The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in subsection 1, 2 or 3; or
5. Any personal property contained in any institution, facility, building, structure or place described in subsection 1, 2 or 3, is guilty of a gross misdemeanor.

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