

Amendment No. 114

Assembly Amendment to Assembly Bill No. 321	(BDR 52-753)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 321—ASSEMBLYMEN CARTER;
ANDERSON AND LA RUE HATCH

MARCH 16, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to public safety. (BDR 52-753)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 public safety; setting forth certain requirements and restrictions concerning foil balloons that are sold, offered for sale or manufactured in this State; prohibiting, with certain exceptions, a person from selling, offering for sale or manufacturing a foil balloon that fails to meet certain requirements; requiring the Public Utilities Commission of Nevada to adopt a standard for the testing and evaluation of the dielectric performance of foil balloons; providing enhanced penalties in certain circumstances for committing assault or battery upon a utility worker; prohibiting a person from committing certain acts against the infrastructure of a public utility; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Sections 2-10 of this bill set forth certain requirements and restrictions concerning the manufacturing and sale of foil balloons, which **section 5** of this bill defines, in general, to mean a balloon that is constructed of electrically conductive material and that is not a hot air balloon or a balloon used in a governmental or scientific research project.

Section 2 sets forth certain legislative findings and declarations concerning foil balloons.

Section 7 of this bill requires a person who manufactures a foil balloon in this State to include certain markings on the foil balloon. **Section 7** also prohibits a person from selling, offering for sale or distributing a foil balloon that is filled with a gas that is lighter than air unless: (1) an object of sufficient weight is affixed to the balloon or its appurtenance to counter the lift capability of the foil balloon; and (2) no electrically conductive string, tether or streamer or other electrically conductive object is attached to the foil balloon.

Section 9 of this bill requires the Public Utilities Commission of Nevada to adopt a standard for the testing and evaluation of the dielectric performance of foil balloons. **Section 9:** (1) requires that standard to be the P2845 Standard, if the P2845 Standard is deemed final and approved; and (2) sets forth the conditions under which the P2845 Standard is deemed final and approved. **Section 6** of this bill defines “P2845 Standard” to mean, in general, a certain specified standard for the testing and evaluation of the dielectric performance of foil balloons established by the Institute of Electrical and Electronics Engineers.

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19 **Section 8** of this bill: (1) requires any foil balloon sold, offered for sale or manufactured
 20 in this State to have been tested in accordance with, and meet the performance standards set
 21 forth in, the standard adopted by the Commission pursuant to **section 9**; and (2) prohibits a
 22 person from selling, offering for sale or manufacturing a foil balloon in this State unless the
 23 foil balloon meets those requirements. **Section 8** provides for the gradual implementation of
 24 those requirements by setting forth certain deadlines by which certain percentages of the foil
 25 balloons sold, offered for sale or manufactured by a person must comply with those
 26 requirements. **Section 8** sets forth certain circumstances under which those deadlines may be
 27 extended.

28 **Section 10** provides for the imposition of a civil penalty against a person who sells, offers
 29 for sale or manufactures a foil balloon in violation of **sections 2-10** not to exceed \$50 for each
 30 balloon sold, offered for sale or manufactured, not to exceed \$2,500 for each day on which a
 31 violation occurs. **Section 10** authorizes the Attorney General, a district attorney or a city
 32 attorney to: (1) recover the civil penalties in a civil action; and (2) bring an action to enjoin
 33 any violation of **sections 2-10**.

34 Existing law: (1) makes it unlawful to commit certain acts involving theft or damage to
 35 property of a public utility; (2) prescribes certain criminal penalties for the commission of
 36 such unlawful acts; and (3) provides for a civil action for damages for an injury to or the
 37 destruction of the property of a public utility. (NRS 704.800, 704.805) **Section 11** of this bill
 38 makes it unlawful for a person, with the intent to interfere or otherwise prevent the
 39 performance of the normal function of any infrastructure owned by a public utility, to: (1)
 40 commit any trespass upon the infrastructure; or (2) intentionally or recklessly deface, damage
 41 or tamper with the infrastructure. **Section 12** of this bill authorizes a public utility to bring a
 42 civil action for damages against any person who violates the prohibition created by **section**
 43 **11**.

44 Under existing law, if a person commits an assault upon an officer, a provider of
 45 health care, a school employee, a taxicab driver or a transit operator who is performing
 46 his or her duty and the person knew or should have known that the victim was an
 47 officer, a provider of health care, a school employee, a taxicab driver or a transit
 48 operator, the person is guilty of: (1) a category B felony if the assault is made with the
 49 use of a deadly weapon or the present ability to use a deadly weapon; (2) a category D
 50 felony if the person is a probationer, prisoner or parolee; or (3) if neither of those
 51 circumstances is present, a gross misdemeanor. (NRS 200.471) Additionally, under
 52 existing law, if a person commits a battery upon an officer, a provider of health care, a
 53 school employee, a taxicab driver or a transit operator, and the person knew or should
 54 have known that the victim was an officer, a provider of health care, a school employee,
 55 a taxicab driver or a transit operator, the person is guilty of: (1) a category B felony if
 56 the battery causes substantial bodily harm or is committed by strangulation; or (2) if
 57 those circumstances are not present and no greater penalty is provided by law, a gross
 58 misdemeanor. (NRS 200.481) Sections 10.3 and 10.6 of this bill provide for the
 59 imposition of those penalties for an assault or battery committed upon a utility worker.

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

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections 2 to 10, inclusive, of this act.

3 **Sec. 2. The Legislature hereby finds and declares that:**

4 **1. Electric utilities in this State are responsible for delivering safe, reliable**
 5 **energy through large transmission and distribution networks. Equipment failure**
 6 **or damage from weather, animals and human activity can cause power outages.**

7 **2. Electric utilities report that foil balloons are among the top causes of**
 8 **outages. Foil balloons are coated with a shiny metallic film that conducts**
 9 **electricity. If a foil balloon contacts power lines, this can create an electrical fault**
 10 **that can damage power lines, cause blackouts and start fires.**

1 3. Because of the risk of power outages and fires caused by foil balloons
2 coming into contact with power lines, other states and jurisdictions have
3 considered bans on foil balloons.

4 4. Modern technology has advanced to allow for the manufacturing of foil
5 balloons that resist conducting electricity. The Institute of Electrical and
6 Electronics Engineers is developing standards for such balloons.

7 5. Requiring foil balloons to be tested and to meet performance standards
8 concerning their dielectric performance will minimize the risks of power outages
9 and fires.

10 **Sec. 3.** As used in sections 2 to 10, inclusive, of this act, unless the context
11 otherwise requires, the words and terms defined in sections 4, 5 and 6 of this act
12 have the meanings ascribed to them in those sections.

13 **Sec. 4.** "Commission" means the Public Utilities Commission of Nevada.

14 **Sec. 5.** 1. "Foil balloon" means a balloon that is constructed of
15 electrically conductive material.

16 2. The term does not include a hot air balloon or a balloon used in a
17 governmental or scientific research project.

18 **Sec. 6.** "P2845 Standard" means the "Standard for Testing and Evaluating
19 the Dielectric Performance of Celebratory Balloons in Contact with Overhead
20 Power Distribution Lines Rated up to 38 kV System Voltage," IEEE P2845, of
21 the Institute of Electrical and Electronics Engineers.

22 **Sec. 7.** 1. A person who manufactures a foil balloon in this State shall
23 include on the foil balloon a suitable, permanent mark that:

24 (a) Identifies the manufacturer of the foil balloon.

25 (b) If the foil balloon meets the requirements of section 8 of this act,
26 indicates that the foil balloon meets those requirements. If the Commission has
27 adopted the P2845 Standard pursuant to section 9 of this act, any marking
28 specified in the P2845 Standard shall be deemed to be a suitable mark for the
29 purposes of this subsection.

30 2. A person shall not sell, offer for sale or distribute a foil balloon that is
31 filled with a gas that is lighter than air in this State unless:

32 (a) An object of sufficient weight is affixed to the foil balloon or its
33 appurtenance to counter the lift capability of the foil balloon; and

34 (b) No electrically conductive string, tether or streamer or any other
35 electrically conductive object is attached to the foil balloon.

36 **Sec. 8.** 1. Except as otherwise provided in this section, a person shall not
37 sell, offer to sell or manufacture a foil balloon in this State unless the foil balloon
38 meets the requirements set forth in this section.

39 2. Except as otherwise provided in this section, any foil balloon sold, offered
40 for sale or manufactured in this State must be tested in accordance with, and
41 meet the performance standards set forth in, a standard for the testing and
42 evaluation of the dielectric performance of foil balloons adopted by the
43 Commission pursuant to section 9 of this act.

44 3. Except as otherwise provided in subsections 4 and 5, a person who sells,
45 offers for sale or manufactures foil balloons in this State shall ensure that:

46 (a) Not less than 25 percent of the foil balloons sold, offered for sale or
47 manufactured by the person comply with the provisions of this section on or
48 before June 30, ~~2024,~~ 2027.

49 (b) Not less than 55 percent of the foil balloons sold, offered for sale or
50 manufactured by the person comply with the provisions of this section on or
51 before June 30, ~~2025,~~ 2028.

1 (c) *Not less than 80 percent of the foil balloons sold, offered for sale or*
2 *manufactured by the person comply with the provisions of this section on or*
3 *before June 30, ~~2026~~ 2029.*

4 (d) *One hundred percent of the foil balloons sold, offered for sale or*
5 *manufactured by the person comply with the provisions of this section on or*
6 *before June 30, ~~2027~~ 2030.*

7 4. *A period described in subsection 3 must be tolled during any period in*
8 *which a serious development, manufacturing, production or supply chain issue or*
9 *event in the nature of force majeure occurs if the issue or event:*

10 (a) *Makes it infeasible to develop, manufacture, produce or sell foil balloons*
11 *in compliance with the requirements of this section; and*

12 (b) *Is outside of the control of the person who sells, offers to sell or*
13 *manufactures a foil balloon in this State.*

14 5. *If a period of tolling is required pursuant to subsection 4, the period must*
15 *be:*

16 (a) *Twenty four months; or*

17 (b) *Until the serious development, manufacturing, production or supply*
18 *chain issue or event in the nature of force majeure is resolved,*
19 *↳ whichever occurs first.*

20 6. *As used in this section, “infeasible” means incapable of being*
21 *accomplished in a successful manner within a reasonable time, taking into*
22 *account economic, environmental, legal, social and technological factors.*

23 **Sec. 9.** 1. *The Commission shall adopt, by regulation, a standard for*
24 *testing and evaluating the dielectric performance of foil balloons. If the P2845*
25 *Standard is final and approved, the Commission shall adopt the P2845 Standard*
26 *as the standard required by this section.*

27 2. *For the purposes of subsection 1, the P2845 Standard shall be deemed to*
28 *be final and approved if the Institute for Electrical and Electronics Engineers*
29 *has:*

30 (a) *Published an interim version of the P2845 Standard;*

31 (b) *Completed a trial of the interim version of the P2845 Standard; and*

32 (c) *After any materially substantive adjustments, if any, to the interim*
33 *version, published a final version of the P2845 Standard.*

34 **Sec. 10.** 1. *A person who sells, offers for sale or manufactures a foil*
35 *balloon in violation of sections 2 to 10, inclusive, of this act is subject to a civil*
36 *penalty not to exceed \$50 for each such foil balloon sold, offered for sale or*
37 *manufactured, except that the penalty against the person must not exceed \$2,500*
38 *for each day on which a violation occurs.*

39 2. *A civil penalty imposed pursuant to subsection 1 must be recovered in a*
40 *civil action brought by the Attorney General or by the district attorney or city*
41 *attorney for the jurisdiction in which the violation occurred.*

42 3. *Any civil penalty collected pursuant to this section by:*

43 (a) *The Attorney General must be paid to the State Treasurer for credit to the*
44 *State General Fund.*

45 (b) *A district attorney or city attorney must deposited in the county or city*
46 *treasury, as applicable.*

47 ~~5.~~ 4. *In determining whether to impose a civil penalty pursuant to*
48 *subsection 1, the court shall consider:*

49 (a) *The nature, extent and severity of the violation;*

50 (b) *If multiple violations occurred, the number of violations;*

51 (c) *The economic effect of the civil penalty on the person;*

52 (d) *The annual revenue of the person in both sales of foil balloons and total*
53 *sales;*

1 (e) Whether the person took good faith measures to comply with the
 2 requirements of sections 2 to 10, inclusive, of this act and when such measures
 3 were taken;

4 (f) The deterrent effect that the imposition of the penalty would have on both
 5 the person and the regulated community as a whole;

6 (g) The willfulness of the person responsible for the violation; and

7 (h) Any other factors that justice may require.

8 ~~6.1~~ 5. The Attorney General or the district attorney or city attorney of a
 9 county or city, as applicable, in which a person sells, offers for sale or
 10 manufactures a foil balloon in violation of sections 2 to 10, inclusive, of this act
 11 may bring an action to enjoin the violation.

12 **Sec. 10.3. NRS 200.471 is hereby amended to read as follows:**

13 200.471 1. As used in this section:

14 (a) "Assault" means:

15 (1) Unlawfully attempting to use physical force against another person; or

16 (2) Intentionally placing another person in reasonable apprehension of
 17 immediate bodily harm.

18 (b) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

19 (c) "Officer" means:

20 (1) A person who possesses some or all of the powers of a peace officer;

21 (2) A person employed in a full-time salaried occupation of fire fighting
 22 for the benefit or safety of the public;

23 (3) A member of a volunteer fire department;

24 (4) A jailer, guard or other correctional officer of a city or county jail;

25 (5) A prosecuting attorney of an agency or political subdivision of the
 26 United States or of this State;

27 (6) A justice of the Supreme Court, judge of the Court of Appeals, district
 28 judge, justice of the peace, municipal judge, magistrate, court commissioner, master
 29 or referee, including a person acting pro tempore in a capacity listed in this
 30 subparagraph;

31 (7) An employee of this State or a political subdivision of this State whose
 32 official duties require the employee to make home visits;

33 (8) A civilian employee or a volunteer of a law enforcement agency whose
 34 official duties require the employee or volunteer to:

35 (I) Interact with the public;

36 (II) Perform tasks related to law enforcement; and

37 (III) Wear identification, clothing or a uniform that identifies the
 38 employee or volunteer as working or volunteering for the law enforcement agency;

39 (9) A civilian employee or a volunteer of a fire-fighting agency whose
 40 official duties require the employee or volunteer to:

41 (I) Interact with the public;

42 (II) Perform tasks related to fire fighting or fire prevention; and

43 (III) Wear identification, clothing or a uniform that identifies the
 44 employee or volunteer as working or volunteering for the fire-fighting agency; or

45 (10) A civilian employee or volunteer of this State or a political
 46 subdivision of this State whose official duties require the employee or volunteer to:

47 (I) Interact with the public;

48 (II) Perform tasks related to code enforcement; and

49 (III) Wear identification, clothing or a uniform that identifies the
 50 employee or volunteer as working or volunteering for this State or a political
 51 subdivision of this State.

52 (d) "Provider of health care" means a physician, a medical student, a
 53 perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a

1 practitioner of respiratory care, a homeopathic physician, an advanced practitioner
2 of homeopathy, a homeopathic assistant, an osteopathic physician, a physician
3 assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry
4 hygienist, a physical therapist, a medical laboratory technician, an optometrist, a
5 chiropractic physician, a chiropractic assistant, a doctor of Oriental medicine, a
6 nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a
7 medication aide - certified, a dentist, a dental student, a dental hygienist, a dental
8 hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an
9 attendant on an ambulance or air ambulance, a psychologist, a social worker, a
10 marriage and family therapist, a marriage and family therapist intern, a clinical
11 professional counselor, a clinical professional counselor intern, a licensed dietitian,
12 the holder of a license or a limited license issued under the provisions of chapter
13 653 of NRS, an emergency medical technician, an advanced emergency medical
14 technician and a paramedic.

15 (e) "School employee" means a licensed or unlicensed person employed by a
16 board of trustees of a school district pursuant to NRS 391.100 or 391.281.

17 (f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

18 (g) "Sports official" has the meaning ascribed to it in NRS 41.630.

19 (h) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

20 (i) "Taxicab driver" means a person who operates a taxicab.

21 (j) "Transit operator" means a person who operates a bus or other vehicle as
22 part of a public mass transportation system.

23 (k) "Utility worker" means an employee or contractor of a public utility as
24 defined in NRS 704.020.

25 2. A person convicted of an assault shall be punished:

26 (a) If paragraph (c) or (d) does not apply to the circumstances of the crime and
27 the assault is not made with the use of a deadly weapon or the present ability to use
28 a deadly weapon, for a misdemeanor.

29 (b) If the assault is made with the use of a deadly weapon or the present ability
30 to use a deadly weapon, for a category B felony by imprisonment in the state prison
31 for a minimum term of not less than 1 year and a maximum term of not more than 6
32 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

33 (c) If paragraph (d) does not apply to the circumstances of the crime and if the
34 assault is committed upon an officer, a provider of health care, a school employee,
35 a taxicab driver, ~~for~~ a transit operator or a utility worker who is performing his or
36 her duty or upon a sports official based on the performance of his or her duties at a
37 sporting event and the person charged knew or should have known that the victim
38 was an officer, a provider of health care, a school employee, a taxicab driver, a
39 transit operator, a utility worker or a sports official, for a gross misdemeanor,
40 unless the assault is made with the use of a deadly weapon or the present ability to
41 use a deadly weapon, then for a category B felony by imprisonment in the state
42 prison for a minimum term of not less than 1 year and a maximum term of not more
43 than 6 years, or by a fine of not more than \$5,000, or by both fine and
44 imprisonment.

45 (d) If the assault is committed upon an officer, a provider of health care, a
46 school employee, a taxicab driver, ~~for~~ a transit operator or a utility worker who is
47 performing his or her duty or upon a sports official based on the performance of his
48 or her duties at a sporting event by a probationer, a prisoner who is in lawful
49 custody or confinement or a parolee, and the probationer, prisoner or parolee
50 charged knew or should have known that the victim was an officer, a provider of
51 health care, a school employee, a taxicab driver, a transit operator, a utility worker
52 or a sports official, for a category D felony as provided in NRS 193.130, unless the
53 assault is made with the use of a deadly weapon or the present ability to use a

1 deadly weapon, then for a category B felony by imprisonment in the state prison for
2 a minimum term of not less than 1 year and a maximum term of not more than 6
3 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

4 **Sec. 10.6. NRS 200.481 is hereby amended to read as follows:**

5 200.481 1. As used in this section:

6 (a) "Battery" means any willful and unlawful use of force or violence upon the
7 person of another.

8 (b) "Child" means a person less than 18 years of age.

9 (c) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

10 (d) "Officer" means:

11 (1) A person who possesses some or all of the powers of a peace officer;

12 (2) A person employed in a full-time salaried occupation of fire fighting
13 for the benefit or safety of the public;

14 (3) A member of a volunteer fire department;

15 (4) A jailer, guard, matron or other correctional officer of a city or county
16 jail or detention facility;

17 (5) A prosecuting attorney of an agency or political subdivision of the
18 United States or of this State;

19 (6) A justice of the Supreme Court, judge of the Court of Appeals, district
20 judge, justice of the peace, municipal judge, magistrate, court commissioner, master
21 or referee, including, without limitation, a person acting pro tempore in a capacity
22 listed in this subparagraph;

23 (7) An employee of this State or a political subdivision of this State whose
24 official duties require the employee to make home visits;

25 (8) A civilian employee or a volunteer of a law enforcement agency whose
26 official duties require the employee or volunteer to:

27 (I) Interact with the public;

28 (II) Perform tasks related to law enforcement; and

29 (III) Wear identification, clothing or a uniform that identifies the
30 employee or volunteer as working or volunteering for the law enforcement agency;

31 (9) A civilian employee or a volunteer of a fire-fighting agency whose
32 official duties require the employee or volunteer to:

33 (I) Interact with the public;

34 (II) Perform tasks related to fire fighting or fire prevention; and

35 (III) Wear identification, clothing or a uniform that identifies the
36 employee or volunteer as working or volunteering for the fire-fighting agency; or

37 (10) A civilian employee or volunteer of this State or a political
38 subdivision of this State whose official duties require the employee or volunteer to:

39 (I) Interact with the public;

40 (II) Perform tasks related to code enforcement; and

41 (III) Wear identification, clothing or a uniform that identifies the
42 employee or volunteer as working or volunteering for this State or a political
43 subdivision of this State.

44 (e) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

45 (f) "School employee" means a licensed or unlicensed person employed by a
46 board of trustees of a school district pursuant to NRS 391.100 or 391.281.

47 (g) "Sporting event" has the meaning ascribed to it in NRS 41.630.

48 (h) "Sports official" has the meaning ascribed to it in NRS 41.630.

49 (i) "Strangulation" means intentionally impeding the normal breathing or
50 circulation of the blood by applying pressure on the throat or neck or by blocking
51 the nose or mouth of another person in a manner that creates a risk of death or
52 substantial bodily harm.

53 (j) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

1 (k) "Taxicab driver" means a person who operates a taxicab.

2 (l) "Transit operator" means a person who operates a bus or other vehicle as
3 part of a public mass transportation system.

4 (m) "Utility worker" means an employee or contractor of a public utility as
5 defined in NRS 704.020.

6 2. Except as otherwise provided in NRS 200.485, a person convicted of a
7 battery, other than a battery committed by an adult upon a child which constitutes
8 child abuse, shall be punished:

9 (a) If the battery is not committed with a deadly weapon, and no substantial
10 bodily harm to the victim results, except under circumstances where a greater
11 penalty is provided in this section or NRS 197.090, for a misdemeanor.

12 (b) If the battery is not committed with a deadly weapon, and either substantial
13 bodily harm to the victim results or the battery is committed by strangulation, for a
14 category C felony as provided in NRS 193.130.

15 (c) If:

16 (1) The battery is committed upon an officer, provider of health care,
17 school employee, taxicab driver, ~~for~~ transit operator or utility worker who was
18 performing his or her duty or upon a sports official based on the performance of his
19 or her duties at a sporting event;

20 (2) The officer, provider of health care, school employee, taxicab driver,
21 transit operator, utility worker or sports official suffers substantial bodily harm or
22 the battery is committed by strangulation; and

23 (3) The person charged knew or should have known that the victim was an
24 officer, provider of health care, school employee, taxicab driver, transit operator,
25 utility worker or sports official,

26 ~~for~~ for a category B felony by imprisonment in the state prison for a minimum term
27 of not less than 2 years and a maximum term of not more than 10 years, or by a fine
28 of not more than \$10,000, or by both fine and imprisonment.

29 (d) If the battery is committed upon an officer, provider of health care, school
30 employee, taxicab driver, ~~for~~ transit operator or utility worker who is performing
31 his or her duty or upon a sports official based on the performance of his or her
32 duties at a sporting event and the person charged knew or should have known that
33 the victim was an officer, provider of health care, school employee, taxicab driver,
34 transit operator, utility worker or sports official, for a gross misdemeanor, except
35 under circumstances where a greater penalty is provided in this section.

36 (e) If the battery is committed with the use of a deadly weapon, and:

37 (1) No substantial bodily harm to the victim results, for a category B felony
38 by imprisonment in the state prison for a minimum term of not less than 2 years and
39 a maximum term of not more than 10 years, and may be further punished by a fine
40 of not more than \$10,000.

41 (2) Substantial bodily harm to the victim results or the battery is committed
42 by strangulation, for a category B felony by imprisonment in the state prison for a
43 minimum term of not less than 2 years and a maximum term of not more than 15
44 years, and may be further punished by a fine of not more than \$10,000.

45 (f) If the battery is committed by a probationer, a prisoner who is in lawful
46 custody or confinement or a parolee, without the use of a deadly weapon, whether
47 or not substantial bodily harm results and whether or not the battery is committed
48 by strangulation, for a category B felony by imprisonment in the state prison for a
49 minimum term of not less than 1 year and a maximum term of not more than 6
50 years.

51 (g) If the battery is committed by a probationer, a prisoner who is in lawful
52 custody or confinement or a parolee, with the use of a deadly weapon, and:

1 (1) No substantial bodily harm to the victim results, for a category B felony
2 by imprisonment in the state prison for a minimum term of not less than 2 years and
3 a maximum term of not more than 10 years.

4 (2) Substantial bodily harm to the victim results or the battery is committed
5 by strangulation, for a category B felony by imprisonment in the state prison for a
6 minimum term of not less than 2 years and a maximum term of not more than 15
7 years.

8 **Sec. 11.** NRS 704.800 is hereby amended to read as follows:

9 704.800 1. It is unlawful for a person to obtain any water, gas, electricity,
10 power or other service, goods or product provided by a public utility with the intent
11 to avoid payment therefor, by:

12 (a) Opening, breaking into, tapping or connecting with any pipe, flume, ditch,
13 conduit, reservoir, wire, meter or other apparatus belonging to or used by any other
14 person or by the State, any county, city, district or municipality, and taking and
15 removing therefrom or allowing to flow or be taken therefrom any water, gas,
16 electricity or power belonging to another;

17 (b) Connecting a pipe, tube, flume, conduit, wire or other instrument or
18 appliance with any pipe, conduit, tube, flume, wire, line, pole, lamp, meter or other
19 apparatus belonging to or used by any water, irrigation, gas, electric or power
20 company or corporation, or belonging to or used by any other person in such a
21 manner as to take therefrom water, gas, electricity or power for any purpose or use
22 without passing through the meter or instrument or other means provided for
23 registering the quantity consumed or supplied;

24 (c) Altering, disconnecting, removing, injuring or preventing the action of any
25 headgate, meter or other instrument used to measure or register the quantity of
26 water, gas, electricity or power used or supplied; or

27 (d) Injuring or interfering with the efficiency of any meter, pipe, conduit,
28 flume, wire, pole, line, lamp, fixture, hydrant or other attachment or apparatus
29 belonging to or used by any water, irrigation, gas, electric or power company or
30 corporation.

31 2. *It is unlawful for a person, with the intent to interfere with or otherwise*
32 *prevent the performance of the normal function of any infrastructure owned by a*
33 *public utility and without the consent of the public utility, to:*

34 (a) *Commit any trespass upon the infrastructure; or*

35 (b) *Intentionally or recklessly deface, damage or tamper with the*
36 *infrastructure.*

37 3. If the value of the service involved or the property damaged or stolen is:

38 (a) Five hundred dollars or more, a person who violates the provisions of this
39 section is guilty of a category D felony and shall be punished as provided in NRS
40 193.130. In addition to any other penalty, the court shall order the person to pay
41 restitution.

42 (b) Less than \$500, a person who violates the provisions of this section is
43 guilty of a misdemeanor.

44 In determining the value of the service involved, the value of all services
45 unlawfully obtained or attempted to be obtained within 3 years before the time the
46 indictment is found or the information is filed may be aggregated.

47 ~~3.~~ 4. This section applies when the service involved either originates or
48 terminates, or both originates and terminates, in this state, or when the charges for
49 the service would have been billable in the normal course by a person providing the
50 service in this state but for the fact that the service was obtained or attempted to be
51 obtained by one or more of the means set forth in subsection 1.

1 **Sec. 12.** NRS 704.805 is hereby amended to read as follows:

2 704.805 1. Any public utility may bring a civil action for damages against
3 any person who ~~{willfully}~~:

4 (a) *Willfully* and knowingly obtains, attempts to obtain or solicits, aids or abets
5 another to obtain any service provided by the public utility by:

6 ~~{(a)}~~ (1) Opening, breaking into, tapping or connecting with any pipe, flume,
7 ditch, conduit, reservoir, wire, meter or other apparatus owned or used by another
8 person;

9 ~~{(b)}~~ (2) Bypassing any meter or other instrument used to register the quantity
10 consumed or supplied; or

11 ~~{(c)}~~ (3) Altering, disconnecting, removing, injuring or preventing the action
12 of any meter or other instrument used to register the quantity consumed or supplied
13 ~~{;}~~ or

14 (b) *Violates subsection 2 of NRS 704.800,*

15 ➤ and recover a sum equal to treble the amount of the actual damages, plus all
16 reasonable costs and expenses incurred by the public utility because of that
17 conduct, including the cost of equipment, investigating the matter and expert
18 witnesses and attorney's fees.

19 2. There is a rebuttable presumption that the person responsible for payment
20 for the delivery of the service of a public utility to any premises caused or had
21 knowledge of any act specified in *paragraph (a) of* subsection 1 if the person:

22 (a) Is the occupant of the premises; or

23 (b) Has any access to the system for delivery of the service to the premises.

24 3. The presumption provided in subsection 2 only shifts the burden of going
25 forward with the evidence and does not shift the burden of proof to the defendant.

26 4. A person who willfully or negligently injures or destroys the property of a
27 public utility which is used in the actual production, distribution or delivery of the
28 service provided by the public utility is liable to the public utility for the cost of the
29 repair or replacement of the property injured or destroyed, including the direct and
30 indirect costs attributable to the repair or replacement but subtracting the value, if
31 any, of salvage.

32 5. Nothing in this section abridges or alters any other right of action or
33 remedy available to a public utility before or after July 1, 1985.

34 6. As used in this section, "direct and indirect costs attributable to repair or
35 replacement" include, but are not limited to, costs for:

36 (a) Labor;

37 (b) Materials;

38 (c) Supervision of employees;

39 (d) Supplies;

40 (e) Tools;

41 (f) Taxes;

42 (g) Transportation;

43 (h) General and administrative expenses;

44 (i) Allocable benefits for employees;

45 (j) Allowances for meals; and

46 (k) Any other related expenses.