

ASSEMBLY, No. 4233

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

Assemblymen Space, Wirths, Assemblywomen Pinkin, Murphy and Swain

SYNOPSIS

Increases penalty for certain acts of trespass and vandalism on agricultural and horticultural lands.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning trespass and vandalism on agricultural or
2 horticultural lands and amending R.S.4:17-2.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. R.S.4:17-2 is amended to read as follows:

8 4:17-2. a. Except as provided otherwise pursuant to subsection
9 b. of this section, any person who trespasses upon the agricultural
10 or horticultural lands of another is liable to a civil penalty of not
11 less than **[\$100.00]** \$100.

12 b. In addition to any other applicable fines, penalties, or
13 restitution that may be assessed pursuant to section 3 of
14 P.L.1983, c.522 (C.2C:18-6) or any other law, any person who
15 knowingly or recklessly operates a motorized vehicle or rides
16 horseback upon the lands of another without obtaining and in
17 possession of the written permission of the owner, occupant, lessee,
18 or licensee thereof, or damages or injures any tangible property,
19 including, but not limited to, any fence, building, feedstocks, crops,
20 live trees, or any domestic animals, located on the lands of another
21 shall be liable to:

22 (1) a civil penalty of not less than \$1,000; and

23 (2) the owner, occupant, lessee, or licensee of the lands for any
24 reasonable and necessary expenses, including reasonable attorney
25 fees, incurred by the owner, occupant, lessee, or licensee to ensure
26 that the lands are restored to their condition prior to commission of
27 the offense.

28 The court shall make a finding of the amount of expenses
29 incurred and damages sustained and order the defendant to pay as
30 appropriate. Notwithstanding the provisions of paragraph (1) of
31 this subsection to the contrary, if the court makes a finding that the
32 damages sustained exceed \$10,000, the court shall order the
33 defendant to pay a civil penalty of not less than \$2,500.

34 c. Any civil penalty imposed pursuant to subsection a. or b. of
35 this section shall be collected in a civil action by a summary
36 proceeding under the "Penalty Enforcement Law of 1999,"
37 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
38 municipal court shall have jurisdiction to enforce the "Penalty
39 Enforcement Law of 1999." If the violation is of a continuing
40 nature, each day during which it continues shall constitute an
41 additional, separate and distinct offense.

42 d. Nothing in this article shall relieve owners of agricultural or
43 horticultural lands from the obligation to provide conspicuous
44 posting prohibiting trespass on the waters or banks along or around
45 any waters listed for stocking with fish in the current fish code

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 adopted pursuant to section 32 of P.L.1948, c. 448 (C.13:1B-30)
2 before a trespass violation may be found.

3 e. As used in this article, "agricultural or horticultural lands"
4 means lands devoted to the production for sale of plants and
5 animals useful to man, encompassing plowed or tilled fields,
6 standing crops or their residues, cranberry bogs and appurtenant
7 dams, dikes, canals, ditches and pump houses, including
8 impoundments, man-made reservoirs and the adjacent shorelines
9 thereto, orchards, nurseries and lands with a maintained fence for
10 the purpose of restraining domestic livestock. "Agricultural or
11 horticultural lands" shall also include lands in agricultural use, as
12 defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public
13 notice prohibiting trespass is given by actual communication to the
14 actor, conspicuous posting, or fencing or other enclosure manifestly
15 designed to exclude intruders.

16 (cf: P.L.2018, c.121, s.3)

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18 2. This act shall take effect immediately.

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STATEMENT

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23 This bill would amend current law concerning penalties for
24 trespass and vandalism on agricultural and horticultural lands.
25 Specifically, this bill would increase the penalty for trespass and
26 vandalism on agricultural and horticultural lands when the damage
27 incurred by the landowner exceeds \$10,000.

28 Under current law, it is a criminal offense to knowingly or
29 recklessly damage or injure any tangible property, including, but
30 not limited to, any fence, building, feedstocks, crops, live trees, or
31 any domestic animals located on agricultural or horticultural lands.
32 In addition, current law provides a civil penalty of at least \$1,000
33 for a person who engages in such an offense.

34 Under this bill, the minimum civil penalty would be increased
35 from \$1,000 to \$2,500 if the court determines that the damages
36 sustained from trespass upon the agricultural or horticultural land
37 exceed \$10,000. This increased civil penalty would be in addition
38 to any other applicable fines, penalties, or restitution that may be
39 assessed pursuant to section 3 of P.L.1983, c.522 (C.2C:18-6) or
40 any other law. This bill is in response to Resolution No. 26
41 approved at the 105th State Agricultural Convention, held in
42 February 2020.