

ASSEMBLY, No. 4174

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED JUNE 27, 2011

Sponsored by:

Assemblyman ANGEL FUENTES

District 5 (Camden and Gloucester)

SYNOPSIS

Upgrades offense and increases penalty for certain acts of defiant trespass.

CURRENT VERSION OF TEXT

As introduced.



A4174 FUENTES

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1 AN ACT concerning defiant trespass and amending N.J.S.18-3.

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

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6 1. N.J.S. 2C:18-3 is amended to read as follows:

7 2C:18-3. a. Unlicensed entry of structures. A person commits an
8 offense if, knowing that he is not licensed or privileged to do so, he
9 enters or surreptitiously remains in any research facility, structure,
10 or separately secured or occupied portion thereof, or in or upon
11 utility company property. An offense under this subsection is a
12 crime of the fourth degree if it is committed in a school or on school
13 property. The offense is a crime of the fourth degree if it is
14 committed in a dwelling. An offense under this section is a crime
15 of the fourth degree if it is committed in a research facility, power
16 generation facility, waste treatment facility, public sewage facility,
17 water treatment facility, public water facility, nuclear electric
18 generating plant or any facility which stores, generates or handles
19 any hazardous chemical or chemical compounds. An offense under
20 this subsection is a crime of the fourth degree if it is committed in
21 or upon utility company property. Otherwise it is a disorderly
22 persons offense.

23 b. Defiant trespasser. A person commits a petty disorderly
24 persons offense if, knowing that he is not licensed or privileged to
25 do so, he enters or remains in any place as to which notice against
26 trespass is given by:

27 (1) Actual communication to the actor; or

28 (2) Posting in a manner prescribed by law or reasonably likely
29 to come to the attention of intruders; or

30 (3) Fencing or other enclosure manifestly designed to exclude
31 intruders.

32 A person commits a disorderly person offense if he violates any
33 provision of subsection b. a third or subsequent time.

34 c. Notwithstanding the term of imprisonment provided in
35 N.J.S.2C:43-8, any person convicted of a third or subsequent
36 offense under subsection b. of this section shall be sentenced to a
37 minimum term of imprisonment of 15 days. The sentence shall be a
38 custodial term. It may not be suspended and is not subject to
39 alternatives to incarceration. A sentence imposed pursuant to this
40 section may not be served on nights and weekends.

41 d. In addition to any other penalty imposed by the court any
42 person convicted of a third or subsequent offense under subsection
43 b. of this section shall serve at least 30 days of community service.

44 **[c.]** e. Peering into windows or other openings of dwelling
45 places. A person commits a crime of the fourth degree if, knowing

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 that he is not licensed or privileged to do so, he peers into a window
2 or other opening of a dwelling or other structure adapted for
3 overnight accommodation for the purpose of invading the privacy
4 of another person and under circumstances in which a reasonable
5 person in the dwelling or other structure would not expect to be
6 observed.

7 **[d.]** f. Defenses. It is an affirmative defense to prosecution
8 under this section that:

9 (1) A structure involved in an offense under subsection a. was
10 abandoned;

11 (2) The structure was at the time open to members of the public
12 and the actor complied with all lawful conditions imposed on access
13 to or remaining in the structure; or

14 (3) The actor reasonably believed that the owner of the
15 structure, or other person empowered to license access thereto,
16 would have licensed him to enter or remain, or, in the case of
17 subsection c. of this section, to peer.

18 (cf: P.L.2009, c.283, s.3)

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20 2. This act shall take effect immediately.

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STATEMENT

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25 This bill would amend the defiant trespasser law. It upgrades the
26 offense from a petty disorderly persons offense to a disorderly
27 persons offense for a third and subsequent violation of the law. The
28 bill also implements mandatory periods of incarceration and
29 community service for third and subsequent convictions.

30 Currently, under paragraph b. of N.J.S.A 2C:18-3, a defiant
31 trespasser commits a petty disorderly persons offense. A petty
32 disorderly persons offense is punishable by up to thirty days in jail,
33 a fine of up to \$500, or both. This bill would amend N.J.S.A
34 2C:18-3 so that third or subsequent act of defiant trespass will be
35 upgraded to a disorderly persons offense. The bill also amends the
36 statute to specify that a conviction for a third or subsequent offense
37 shall carry a mandatory term of incarceration of at least 15 days, as
38 well as at least 30 days of community service. The bill specifies that
39 such term of incarceration is ineligible for any alternatives to
40 incarceration and the sentence may not be served on nights or
41 weekends. The bill would upgrade and increase the penalty for
42 such offenses in an effort to prevent repeat offenders from
43 frequenting the same locations and address quality of life, health
44 safety and welfare issues created by said offenders.