
ASSEMBLY BILL NO. 257—ASSEMBLYMEN KIHUEN, HORNE,
ANDERSON; CLABORN, CONKLIN, DENIS, DONDERO LOOP,
MCCLAIN, MORTENSON, MUNFORD, OCEGUERA,
OHRENSCHALL AND SEGERBLOM

MARCH 6, 2009

Referred to Committee on Judiciary

SUMMARY—Prohibits the taking of an excessive number of certain free publications under certain circumstances. (BDR 15-532)

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: No.

~

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

AN ACT relating to crimes; prohibiting the taking of an excessive number of certain free publications under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law defines the crime of theft and provides that theft is punishable as a
- 2 misdemeanor if the value of the property involved in the theft is less than \$250.
- 3 (NRS 205.0832, 205.0835) Existing law also defines the crime of petit larceny and
- 4 provides that petit larceny is punishable as a misdemeanor if the value of the
- 5 personal goods or property involved in the petit larceny is less than \$250.
- 6 (NRS 205.240)
- 7 **Section 1** of this bill, which is modeled after California Penal Code § 490.7,
- 8 generally prohibits a person from taking more than 10 copies of a free or
- 9 complimentary newspaper if the person has the specific intent to: (1) profit by
- 10 recycling the newspaper; (2) sell or barter the newspaper; (3) deprive others of the
- 11 opportunity to read the newspaper; or (4) harm a business competitor. **Section 1**
- 12 provides that a person who commits a first offense is guilty of a misdemeanor and
- 13 subject to a fine of up to \$250, and for a second or subsequent offense, is guilty of a
- 14 misdemeanor punishable by up to 10 days in jail or a fine of up to \$500, or both.
- 15 The court may also order a person convicted of a first or second offense to perform
- 16 community service in lieu of all or a part of the punishment.
- 17 **Sections 1-3** of the bill also clarify that a violation of **section 1** does not
- 18 constitute the crime of theft or petit larceny.



1 WHEREAS, Free publications provide an important source of
2 information to the public and a valuable alternative to the news and
3 ideas expressed in other local media, thereby contributing to the
4 marketplace of ideas; and

5 WHEREAS, The Nevada Legislature should attempt to ensure
6 that the marketplace of ideas is preserved and that contributors to
7 that marketplace, such as free publications, are protected from
8 improper and injurious interference with their mission; and

9 WHEREAS, The unauthorized taking of an excessive number of
10 copies of free publications impoverishes the marketplace of ideas
11 and injures the rights of a free publication's readers, writers,
12 publishers and advertisers; now, therefore,

13
14 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
15 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
16

17 **Section 1.** Chapter 205 of NRS is hereby amended by adding
18 thereto a new section to read as follows:

19 *1. Except as otherwise provided in this section, a person shall*
20 *not take from a news rack more than 10 copies of the current issue*
21 *of a free or complimentary newspaper if the person has the*
22 *specific intent to:*

23 *(a) Recycle the newspaper for cash or other payment;*

24 *(b) Sell or barter the newspaper;*

25 *(c) Deprive others of the opportunity to read or enjoy the*
26 *newspaper; or*

27 *(d) Harm a business competitor.*

28 *2. This section does not apply to the taking of a current issue*
29 *of a free or complimentary issue:*

30 *(a) By the owner or operator of a news rack in which the*
31 *copies are placed;*

32 *(b) By the owner or operator of the property on which the news*
33 *rack is placed;*

34 *(c) By the publisher, printer, distributor or deliverer of the*
35 *newspaper;*

36 *(d) By any person who advertises in the current issue of the*
37 *newspaper;*

38 *(e) By any person who has the express permission of any*
39 *person described in paragraphs (a) to (d), inclusive; or*

40 *(f) If the publisher has indicated on the news rack or in the*
41 *newspaper that the limitation set forth in this section does not*
42 *apply to the current issue.*

43 *3. A person who violates this section:*



1 (a) *For the first offense, is guilty of a misdemeanor and shall*
2 *be punished by a fine of not more than \$250.*

3 (b) *For a second or subsequent offense, is guilty of a*
4 *misdemeanor and shall be punished by imprisonment in the*
5 *county jail for not more than 10 days, or by a fine of not more*
6 *than \$500, or by both fine and imprisonment.*

7 4. *In lieu of all or a part of the punishment which may be*
8 *imposed pursuant to subsection 3, the convicted person may be*
9 *sentenced to perform:*


10 (a) *For a first offense, 20 hours of community service*
11 *pursuant to the conditions prescribed in NRS 176.087.*

12 (b) *For a second or subsequent offense, 40 hours of*
13 *community service pursuant to the conditions prescribed in*
14 *NRS 176.087.*

15 5. *A conviction under this section shall be deemed not to*
16 *constitute a conviction for theft or petit larceny.*

17 6. *For the purposes of this section, an issue of a newspaper is*
18 *the “current issue” if not more than half the period until the*
19 *distribution of the next issue of the newspaper has passed.*

20 **Sec. 2.** NRS 205.0832 is hereby amended to read as follows:

21 205.0832 1. Except as otherwise provided in subsection 2 
22 *and section 1 of this act*, a person commits theft if, without lawful
23 authority, he knowingly:

24 (a) Controls any property of another person with the intent to
25 deprive that person of the property.

26 (b) Converts, makes an unauthorized transfer of an interest in, or
27 without authorization controls any property of another person,
28 or uses the services or property of another person entrusted to him
29 or placed in his possession for a limited, authorized period of
30 determined or prescribed duration or for a limited use.

31 (c) Obtains real, personal or intangible property or the services
32 of another person by a material misrepresentation with intent to
33 deprive that person of the property or services. As used in this
34 paragraph, “material misrepresentation” means the use of any
35 pretense, or the making of any promise, representation or statement
36 of present, past or future fact which is fraudulent and which, when
37 used or made, is instrumental in causing the wrongful control or
38 transfer of property or services. The pretense may be verbal or it
39 may be a physical act.

40 (d) Comes into control of lost, mislaid or misdelivered property
41 of another person under circumstances providing means of inquiry
42 as to the true owner and appropriates that property to his own use or
43 that of another person without reasonable efforts to notify the true
44 owner.



1 (e) Controls property of another person knowing or having
2 reason to know that the property was stolen.

3 (f) Obtains services or parts, products or other items related to
4 such services which he knows are available only for compensation
5 without paying or agreeing to pay compensation or diverts the
6 services of another person to his own benefit or that of another
7 person without lawful authority to do so.

8 (g) Takes, destroys, conceals or disposes of property in which
9 another person has a security interest, with intent to defraud that
10 person.

11 (h) Commits any act that is declared to be theft by a specific
12 statute.

13 (i) Draws or passes a check, and in exchange obtains property or
14 services, if he knows that the check will not be paid when presented.

15 (j) Obtains gasoline or other fuel or automotive products which
16 are available only for compensation without paying or agreeing to
17 pay compensation.

18 2. A person who commits an act that is prohibited by
19 subsection 1 which involves the repair of a vehicle has not
20 committed theft unless, before the repair was made, he received a
21 written estimate of the cost of the repair.

22 **Sec. 3.** NRS 205.240 is hereby amended to read as follows:

23 205.240 1. Except as otherwise provided in NRS 205.220,
24 205.226, 205.228 and 475.105 ~~and~~ *and section 1 of this act*, a person
25 commits petit larceny if the person:

26 (a) Intentionally steals, takes and carries away, leads away or
27 drives away:

28 (1) Personal goods or property, with a value of less than
29 \$250, owned by another person;

30 (2) Bedding, furniture or other property, with a value of less
31 than \$250, which the person, as a lodger, is to use in or with his
32 lodging and which is owned by another person; or

33 (3) Real property, with a value of less than \$250, that the
34 person has converted into personal property by severing it from real
35 property owned by another person.

36 (b) Intentionally steals, takes and carries away, leads away,
37 drives away or entices away one or more domesticated animals or
38 domesticated birds, with an aggregate value of less than \$250,
39 owned by another person.

40 2. A person who commits petit larceny is guilty of a
41 misdemeanor. In addition to any other penalty, the court shall order
42 the person to pay restitution.

