

Assembly Bill No. 335—Assemblymen Parnell, Anderson;  
Carpenter, Cobb, Dondero Loop, Gustavson, Hambrick,  
McArthur, Mortenson, Ohrenschall and Segerblom

CHAPTER.....

AN ACT relating to criminal gangs; making various changes relating to nuisances and criminal gangs; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that certain places used for certain illegal activities constitute a private nuisance, which creates civil liability and allows any person whose property is affected to bring a civil action to abate the nuisance and recover damages. (NRS 40.140) **Section 3** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a private nuisance. Existing law also provides that certain places used for certain illegal activities constitute a public nuisance, and any person responsible for such a public nuisance who does not abate the public nuisance is guilty of a misdemeanor. (NRS 202.450, 202.470) **Section 5** of this bill provides that a building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang constitutes such a public nuisance.

**Sections 6 and 7** of this bill authorize the board of county commissioners of a county and the governing body of a city to adopt an ordinance authorizing the filing of a civil action, under certain circumstances, to: (1) enjoin the activities of a specific member of a criminal gang; and (2) recover money damages, attorney's fees and costs against a member of a criminal gang and the owner of a business or place that constitutes a nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang. **Sections 6 and 7** also provide that a member of a criminal gang who is subject to an injunction and who knowingly and intentionally commits a material violation of that injunction is guilty of a misdemeanor.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section:

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog; ~~for~~



(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog **H**; or

***(d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang,***

↳ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↳ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:



(a) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

(b) *“Criminal gang” has the meaning ascribed to it in NRS 193.168.*

(c) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.

~~(e)~~ (d) “Shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; ~~(e)~~

(f) *That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or*

(g) Where vagrants resort,

↳ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↳ is a public nuisance.



4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↳ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) "*Criminal gang*" has the meaning ascribed to it in *NRS 193.168*.



(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~(e)~~ (d) "Shooting range" has the meaning ascribed to it in NRS 40.140.

**Sec. 6.** Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Notwithstanding the provisions of any other law or ordinance, each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:*

*(a) A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the county.*

*(b) The recovery of money damages, attorney's fees and costs from:*

*(1) Any member of a criminal gang that is engaging in criminal activities within the county; and*

*(2) The owner of a building or place located within the county that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.*

*2. Any money damages awarded in an action brought pursuant to this section must be:*

*(a) Paid by, or collected from:*

*(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;*

*(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or*

*(3) Any combination of the assets described in subparagraphs (1) and (2).*

*(b) Deposited into a separate, segregated fund in the county treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.*



3. *A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.*

4. *An action may not be brought pursuant to this section against:*

(a) *Any governmental entity; or*

(b) *Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.*

5. *As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.*

**Sec. 7.** Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding the provisions of any other law or ordinance, each governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file a civil action in a court of competent jurisdiction to seek any or all of the following relief:*

(a) *A temporary or permanent injunction against any specific member of a criminal gang to enjoin his activity which is associated with the criminal gang and which is occurring within the city.*

(b) *The recovery of money damages, attorney's fees and costs from:*

(1) *Any member of a criminal gang that is engaging in criminal activities within the city; and*

(2) *The owner of a building or place located within the city that has been found to be a public nuisance because the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang, but only if the owner has actual notice that the building or place is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang.*

2. *Any money damages awarded in an action brought pursuant to this section must be:*

(a) *Paid by, or collected from:*



*(1) Any assets of the criminal gang or its members that were derived from the criminal activities of the criminal gang or its members;*

*(2) Any assets of the owner of a building or place that has been found to constitute a public nuisance; or*

*(3) Any combination of the assets described in subparagraphs (1) and (2).*

*(b) Deposited into a separate, segregated fund in the city treasury, to be used solely for the benefit of the specific community or neighborhood that has been injured by the criminal activities of the criminal gang or the existence of the building or place that constitutes a public nuisance.*

*3. A member of a criminal gang who is subject to a temporary or permanent injunction granted pursuant to this section and who knowingly and intentionally commits a material violation of the terms of that injunction is guilty of a misdemeanor. If the violation also constitutes a criminal offense under another provision of law, the violation may be prosecuted pursuant to this section or the other provision of law, or both.*

*4. An action may not be brought pursuant to this section against:*

*(a) Any governmental entity; or*

*(b) Any charitable or nonprofit organization that is conducting, with ordinary care and skill, activities relating to prevention or education concerning criminal gangs.*

*5. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.*

