

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; 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:**

- 1     **Sections 2-10** of this bill set forth certain requirements and restrictions  
2 concerning the manufacturing and sale of foil balloons, which **section 5** of this bill  
3 defines, in general, to mean a balloon that is constructed of electrically conductive  
4 material and that is not a hot air balloon or a balloon used in a governmental or  
5 scientific research project.  
6     **Section 2** sets forth certain legislative findings and declarations concerning foil  
7 balloons.  
8     **Section 7** of this bill requires a person who manufactures a foil balloon in this  
9 State to include certain markings on the foil balloon. **Section 7** also prohibits a  
10 person from selling, offering for sale or distributing a foil balloon that is filled with  
11 a gas that is lighter than air unless: (1) an object of sufficient weight is affixed to  
12 the balloon or its appurtenance to counter the lift capability of the foil balloon; and



13 (2) no electrically conductive string, tether or streamer or other electrically  
14 conductive object is attached to the foil balloon.

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

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

33 **Section 10** provides for the imposition of a civil penalty against a person who  
34 sells, offers for sale or manufactures a foil balloon in violation of **sections 2-10** not  
35 to exceed \$50 for each balloon sold, offered for sale or manufactured, not to exceed  
36 \$2,500 for each day on which a violation occurs. **Section 10** authorizes the  
37 Attorney General, a district attorney or a city attorney to: (1) recover the civil  
38 penalties in a civil action; and (2) bring an action to enjoin any violation of **sections**  
39 **2-10**.

40 Existing law: (1) makes it unlawful to commit certain acts involving theft or  
41 damage to property of a public utility; (2) prescribes certain criminal penalties for  
42 the commission of such unlawful acts; and (3) provides for a civil action for  
43 damages for an injury to or the destruction of the property of a public utility. (NRS  
44 704.800, 704.805) **Section 11** of this bill makes it unlawful for a person, with the  
45 intent to interfere or otherwise prevent the performance of the normal function of  
46 any infrastructure owned by a public utility, to: (1) commit any trespass upon the  
47 infrastructure; or (2) intentionally or recklessly deface, damage or tamper with the  
48 infrastructure. **Section 12** of this bill authorizes a public utility to bring a civil  
49 action for damages against any person who violates the prohibition created by  
50 **section 11**.

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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  
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this  
3 act.

4 **Sec. 2. *The Legislature hereby finds and declares that:***  
5 ***1. Electric utilities in this State are responsible for delivering***  
6 ***safe, reliable energy through large transmission and distribution***  
7 ***networks. Equipment failure or damage from weather, animals***  
8 ***and human activity can cause power outages.***



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

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

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

13       5. *Requiring foil balloons to be tested and to meet*  
14 *performance standards concerning their dielectric performance*  
15 *will minimize the risks of power outages and fires.*

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

20       **Sec. 4.** *“Commission” means the Public Utilities*  
21 *Commission of Nevada.*

22       **Sec. 5. 1.** *“Foil balloon” means a balloon that is*  
23 *constructed of electrically conductive material.*

24       2. *The term does not include a hot air balloon or a balloon*  
25 *used in a governmental or scientific research project.*

26       **Sec. 6.** *“P2845 Standard” means the “Standard for Testing*  
27 *and Evaluating the Dielectric Performance of Celebratory*  
28 *Balloons in Contact with Overhead Power Distribution Lines*  
29 *Rated up to 38 kV System Voltage,” IEEE P2845, of the Institute*  
30 *of Electrical and Electronics Engineers.*

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

34       (a) *Identifies the manufacturer of the foil balloon.*

35       (b) *If the foil balloon meets the requirements of section 8 of*  
36 *this act, indicates that the foil balloon meets those requirements. If*  
37 *the Commission has adopted the P2845 Standard pursuant to*  
38 *section 9 of this act, any marking specified in the P2845 Standard*  
39 *shall be deemed to be a suitable mark for the purposes of this*  
40 *subsection.*

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



1 (a) *An object of sufficient weight is affixed to the foil balloon*  
2 *or its appurtenance to counter the lift capability of the foil*  
3 *balloon; and*

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

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

10 2. *Except as otherwise provided in this section, any foil*  
11 *balloon sold, offered for sale or manufactured in this State must*  
12 *be tested in accordance with, and meet the performance standards*  
13 *set forth in, a standard for the testing and evaluation of the*  
14 *dielectric performance of foil balloons adopted by the Commission*  
15 *pursuant to section 9 of this act.*

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

19 (a) *Not less than 25 percent of the foil balloons sold, offered*  
20 *for sale or manufactured by the person comply with the provisions*  
21 *of this section on or before June 30, 2024.*

22 (b) *Not less than 55 percent of the foil balloons sold, offered*  
23 *for sale or manufactured by the person comply with the provisions*  
24 *of this section on or before June 30, 2025.*

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

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

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

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

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

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

42 (a) *Twenty four months; or*



1 (b) *Until the serious development, manufacturing, production*  
2 *or supply chain issue or event in the nature of force majeure is*  
3 *resolved,*

4 *↳ whichever occurs first.*

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

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

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

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

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

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

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

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

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

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

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

37 5. *In determining whether to impose a civil penalty pursuant*  
38 *to subsection 1, the court shall consider:*

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

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

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

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



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

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

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

8 *(h) Any other factors that justice may require.*

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

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

15 704.800 1. It is unlawful for a person to obtain any water,  
16 gas, electricity, power or other service, goods or product provided  
17 by a public utility with the intent to avoid payment therefor, by:

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

24 (b) Connecting a pipe, tube, flume, conduit, wire or other  
25 instrument or appliance with any pipe, conduit, tube, flume, wire,  
26 line, pole, lamp, meter or other apparatus belonging to or used by  
27 any water, irrigation, gas, electric or power company or corporation,  
28 or belonging to or used by any other person in such a manner as to  
29 take therefrom water, gas, electricity or power for any purpose or  
30 use without passing through the meter or instrument or other means  
31 provided for registering the quantity consumed or supplied;

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

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

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

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



1 *(b) Intentionally or recklessly deface, damage or tamper with*  
2 *the infrastructure.*

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

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

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

11 ↪ In determining the value of the service involved, the value of all  
12 services unlawfully obtained or attempted to be obtained within 3  
13 years before the time the indictment is found or the information is  
14 filed may be aggregated.

15 ~~3.~~ 4. This section applies when the service involved either  
16 originates or terminates, or both originates and terminates, in this  
17 state, or when the charges for the service would have been billable  
18 in the normal course by a person providing the service in this state  
19 but for the fact that the service was obtained or attempted to be  
20 obtained by one or more of the means set forth in subsection 1.

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

22 704.805 1. Any public utility may bring a civil action for  
23 damages against any person who ~~willfully~~:

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

27 ~~(a)~~ (1) Opening, breaking into, tapping or connecting with any  
28 pipe, flume, ditch, conduit, reservoir, wire, meter or other apparatus  
29 owned or used by another person;

30 ~~(b)~~ (2) Bypassing any meter or other instrument used to  
31 register the quantity consumed or supplied; or

32 ~~(c)~~ (3) Altering, disconnecting, removing, injuring or  
33 preventing the action of any meter or other instrument used to  
34 register the quantity consumed or supplied ~~;~~; or

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

36 ↪ and recover a sum equal to treble the amount of the actual  
37 damages, plus all reasonable costs and expenses incurred by the  
38 public utility because of that conduct, including the cost of  
39 equipment, investigating the matter and expert witnesses and  
40 attorney's fees.

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



- 1 (a) Is the occupant of the premises; or  
2 (b) Has any access to the system for delivery of the service to  
3 the premises.

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

7 4. A person who willfully or negligently injures or destroys the  
8 property of a public utility which is used in the actual production,  
9 distribution or delivery of the service provided by the public utility  
10 is liable to the public utility for the cost of the repair or replacement  
11 of the property injured or destroyed, including the direct and indirect  
12 costs attributable to the repair or replacement but subtracting the  
13 value, if any, of salvage.

14 5. Nothing in this section abridges or alters any other right of  
15 action or remedy available to a public utility before or after July 1,  
16 1985.

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

- 19 (a) Labor;  
20 (b) Materials;  
21 (c) Supervision of employees;  
22 (d) Supplies;  
23 (e) Tools;  
24 (f) Taxes;  
25 (g) Transportation;  
26 (h) General and administrative expenses;  
27 (i) Allocable benefits for employees;  
28 (j) Allowances for meals; and  
29 (k) Any other related expenses.

