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SECOND REPRINT

A.B. 321

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; providing enhanced penalties in certain circumstances for committing assault or battery upon a utility worker; 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 the
30 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**.

51 Under existing law, if a person commits an assault upon an officer, a provider
52 of health care, a school employee, a taxicab driver or a transit operator who is
53 performing his or her duty and the person knew or should have known that the
54 victim was an officer, a provider of health care, a school employee, a taxicab driver
55 or a transit operator, the person is guilty of: (1) a category B felony if the assault is
56 made with the use of a deadly weapon or the present ability to use a deadly
57 weapon; (2) a category D felony if the person is a probationer, prisoner or parolee;
58 or (3) if neither of those circumstances is present, a gross misdemeanor. (NRS
59 200.471) Additionally, under existing law, if a person commits a battery upon an
60 officer, a provider of health care, a school employee, a taxicab driver or a transit
61 operator, and the person knew or should have known that the victim was an officer,
62 a provider of health care, a school employee, a taxicab driver or a transit operator,
63 the person is guilty of: (1) a category B felony if the battery causes substantial
64 bodily harm or is committed by strangulation; or (2) if those circumstances are not
65 present and no greater penalty is provided by law, a gross misdemeanor.



66 (NRS 200.481) **Sections 10.3 and 10.6** of this bill provide for the imposition of
67 those penalties for an assault or battery committed upon a utility worker.

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.*

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

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

17 4. *Modern technology has advanced to allow for the*
18 *manufacturing of foil balloons that resist conducting electricity.*
19 *The Institute of Electrical and Electronics Engineers is developing*
20 *standards for such balloons.*

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

24 **Sec. 3.** *As used in sections 2 to 10, inclusive, of this act,*
25 *unless the context otherwise requires, the words and terms defined*
26 *in sections 3.5 to 6, inclusive, of this act have the meanings*
27 *ascribed to them in those sections.*

28 **Sec. 3.5.** *“Commencement date” means the date on which*
29 *the regulation adopted by the Commission establishing the P2845*
30 *Standard pursuant to section 9 of this act becomes effective, or on*
31 *June 20, 2027, whichever is later.*

32 **Sec. 4.** *“Commission” means the Public Utilities*
33 *Commission of Nevada.*

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

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

38 **Sec. 6.** *“P2845 Standard” means the “Standard for Testing*
39 *and Evaluating the Dielectric Performance of Celebratory*



1 *Balloons in Contact with Overhead Power Distribution Lines*
2 *Rated up to 38 kV System Voltage,” IEEE P2845, of the Institute*
3 *of Electrical and Electronics Engineers.*

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

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

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

14 2. *A person shall not sell, offer for sale or distribute a foil*
15 *balloon that is filled with a gas that is lighter than air in this State*
16 *after the commencement date unless:*

17 (a) *An object of sufficient weight is affixed to the foil balloon*
18 *or its appurtenance to counter the lift capability of the foil*
19 *balloon; and*

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

22 **Sec. 8. 1.** *Except as otherwise provided in this section, a*
23 *person shall not sell, offer to sell or manufacture a foil balloon in*
24 *this State after the commencement date unless the foil balloon*
25 *meets the requirements set forth in this section.*

26 2. *Except as otherwise provided in this section, any foil*
27 *balloon sold, offered for sale or manufactured in this State after*
28 *the commencement date must be tested in accordance with, and*
29 *meet the performance standards set forth in, a standard for the*
30 *testing and evaluation of the dielectric performance of foil*
31 *balloons adopted by the Commission pursuant to section 9 of this*
32 *act.*

33 3. *Except as otherwise provided in subsections 4 and 5, a*
34 *person who sells, offers for sale or manufactures foil balloons in*
35 *this State after the commencement date shall ensure that:*

36 (a) *Not less than 25 percent of the foil balloons sold, offered*
37 *for sale or manufactured by the person comply with the provisions*
38 *of this section on or before June 30, 2027.*

39 (b) *Not less than 55 percent of the foil balloons sold, offered*
40 *for sale or manufactured by the person comply with the provisions*
41 *of this section on or before June 30, 2028.*

42 (c) *Not less than 80 percent of the foil balloons sold, offered*
43 *for sale or manufactured by the person comply with the provisions*
44 *of this section on or before June 30, 2029.*



1 (d) One hundred percent of the foil balloons sold, offered for
2 sale or manufactured by the person comply with the provisions of
3 this section on or before June 30, 2030.

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

8 (a) Makes it infeasible to develop, manufacture, produce or
9 sell foil balloons in compliance with the requirements of this
10 section; and

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

13 5. If a period of tolling is required pursuant to subsection 4,
14 the period must be:

15 (a) Twenty four months; or

16 (b) Until the serious development, manufacturing, production
17 or supply chain issue or event in the nature of force majeure is
18 resolved,

19 ↪ whichever occurs later.

20 6. As used in this section, "infeasible" means incapable of
21 being accomplished in a successful manner within a reasonable
22 time, taking into account economic, environmental, legal, social
23 and technological factors.

24 **Sec. 9. 1.** The Commission shall adopt, by regulation, a
25 standard for testing and evaluating the dielectric performance of
26 foil balloons. If the P2845 Standard is final and approved, the
27 Commission shall adopt the P2845 Standard as the standard
28 required by this section.

29 2. For the purposes of subsection 1, the P2845 Standard shall
30 be deemed to be final and approved if the Institute for Electrical
31 and Electronics Engineers has:

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

33 (b) Completed a trial of the interim version of the P2845
34 Standard; and

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

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

43 2. A civil penalty imposed pursuant to subsection 1 must be
44 recovered in a civil action brought by the Attorney General or by



1 *the district attorney or city attorney for the jurisdiction in which*
2 *the violation occurred.*

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

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

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

8 4. *In determining whether to impose a civil penalty pursuant*
9 *to subsection 1, the court shall consider:*

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

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

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

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

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

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

20 (g) *The willfulness of the person responsible for the violation;*
21 *and*

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

23 5. *The Attorney General or the district attorney or city*
24 *attorney of a county or city, as applicable, in which a person sells,*
25 *offers for sale or manufactures a foil balloon in violation of*
26 *sections 2 to 10, inclusive, of this act may bring an action to enjoin*
27 *the violation.*

28 **Sec. 10.3.** NRS 200.471 is hereby amended to read as follows:
29 200.471 1. As used in this section:

30 (a) "Assault" means:

31 (1) *Unlawfully attempting to use physical force against*
32 *another person; or*

33 (2) *Intentionally placing another person in reasonable*
34 *apprehension of immediate bodily harm.*

35 (b) "Fire-fighting agency" has the meaning ascribed to it in
36 NRS 239B.020.

37 (c) "Officer" means:

38 (1) *A person who possesses some or all of the powers of a*
39 *peace officer;*

40 (2) *A person employed in a full-time salaried occupation of*
41 *fire fighting for the benefit or safety of the public;*

42 (3) *A member of a volunteer fire department;*

43 (4) *A jailer, guard or other correctional officer of a city or*
44 *county jail;*



1 (5) A prosecuting attorney of an agency or political
2 subdivision of the United States or of this State;

3 (6) A justice of the Supreme Court, judge of the Court of
4 Appeals, district judge, justice of the peace, municipal judge,
5 magistrate, court commissioner, master or referee, including a
6 person acting pro tempore in a capacity listed in this subparagraph;

7 (7) An employee of this State or a political subdivision of
8 this State whose official duties require the employee to make home
9 visits;

10 (8) A civilian employee or a volunteer of a law enforcement
11 agency whose official duties require the employee or volunteer to:

12 (I) Interact with the public;

13 (II) Perform tasks related to law enforcement; and

14 (III) Wear identification, clothing or a uniform that
15 identifies the employee or volunteer as working or volunteering for
16 the law enforcement agency;

17 (9) A civilian employee or a volunteer of a fire-fighting
18 agency whose official duties require the employee or volunteer to:

19 (I) Interact with the public;

20 (II) Perform tasks related to fire fighting or fire
21 prevention; and

22 (III) Wear identification, clothing or a uniform that
23 identifies the employee or volunteer as working or volunteering for
24 the fire-fighting agency; or

25 (10) A civilian employee or volunteer of this State or a
26 political subdivision of this State whose official duties require the
27 employee or volunteer to:

28 (I) Interact with the public;

29 (II) Perform tasks related to code enforcement; and

30 (III) Wear identification, clothing or a uniform that
31 identifies the employee or volunteer as working or volunteering for
32 this State or a political subdivision of this State.

33 (d) "Provider of health care" means a physician, a medical
34 student, a perfusionist or a physician assistant licensed pursuant to
35 chapter 630 of NRS, a practitioner of respiratory care, a
36 homeopathic physician, an advanced practitioner of homeopathy, a
37 homeopathic assistant, an osteopathic physician, a physician
38 assistant licensed pursuant to chapter 633 of NRS, a podiatric
39 physician, a podiatry hygienist, a physical therapist, a medical
40 laboratory technician, an optometrist, a chiropractic physician, a
41 chiropractic assistant, a doctor of Oriental medicine, a nurse, a
42 student nurse, a certified nursing assistant, a nursing assistant
43 trainee, a medication aide - certified, a dentist, a dental student, a
44 dental hygienist, a dental hygienist student, a pharmacist, a
45 pharmacy student, an intern pharmacist, an attendant on an



1 ambulance or air ambulance, a psychologist, a social worker, a
2 marriage and family therapist, a marriage and family therapist
3 intern, a clinical professional counselor, a clinical professional
4 counselor intern, a licensed dietitian, the holder of a license or a
5 limited license issued under the provisions of chapter 653 of NRS,
6 an emergency medical technician, an advanced emergency medical
7 technician and a paramedic.

8 (e) "School employee" means a licensed or unlicensed person
9 employed by a board of trustees of a school district pursuant to NRS
10 391.100 or 391.281.

11 (f) "Sporting event" has the meaning ascribed to it in
12 NRS 41.630.

13 (g) "Sports official" has the meaning ascribed to it in
14 NRS 41.630.

15 (h) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

16 (i) "Taxicab driver" means a person who operates a taxicab.

17 (j) "Transit operator" means a person who operates a bus or
18 other vehicle as part of a public mass transportation system.

19 *(k) "Utility worker" means an employee of a public utility as*
20 *defined in NRS 704.020 whose official duties require the employee*
21 *to:*

22 *(1) Interact with the public;*

23 *(2) Perform tasks related to the operation of the public*
24 *utility; and*

25 *(3) Wear identification, clothing or a uniform that*
26 *identifies the employee as working for the public utility.*

27 2. A person convicted of an assault shall be punished:

28 (a) If paragraph (c) or (d) does not apply to the circumstances of
29 the crime and the assault is not made with the use of a deadly
30 weapon or the present ability to use a deadly weapon, for a
31 misdemeanor.

32 (b) If the assault is made with the use of a deadly weapon or the
33 present ability to use a deadly weapon, for a category B felony by
34 imprisonment in the state prison for a minimum term of not less
35 than 1 year and a maximum term of not more than 6 years, or by a
36 fine of not more than \$5,000, or by both fine and imprisonment.

37 (c) If paragraph (d) does not apply to the circumstances of the
38 crime and if the assault is committed upon an officer, a provider of
39 health care, a school employee, a taxicab driver, ~~or~~ a transit
40 operator *or a utility worker* who is performing his or her duty or
41 upon a sports official based on the performance of his or her duties
42 at a sporting event and the person charged knew or should have
43 known that the victim was an officer, a provider of health care, a
44 school employee, a taxicab driver, a transit operator, *a utility*
45 *worker* or a sports official, for a gross misdemeanor, unless the



1 assault is made with the use of a deadly weapon or the present
2 ability to use a deadly weapon, then for a category B felony by
3 imprisonment in the state prison for a minimum term of not less
4 than 1 year and a maximum term of not more than 6 years, or by a
5 fine of not more than \$5,000, or by both fine and imprisonment.

6 (d) If the assault is committed upon an officer, a provider of
7 health care, a school employee, a taxicab driver , ~~for~~ a transit
8 operator *or a utility worker* who is performing his or her duty or
9 upon a sports official based on the performance of his or her duties
10 at a sporting event by a probationer, a prisoner who is in lawful
11 custody or confinement or a parolee, and the probationer, prisoner
12 or parolee charged knew or should have known that the victim was
13 an officer, a provider of health care, a school employee, a taxicab
14 driver, a transit operator , *a utility worker* or a sports official, for a
15 category D felony as provided in NRS 193.130, unless the assault is
16 made with the use of a deadly weapon or the present ability to use a
17 deadly weapon, then for a category B felony by imprisonment in the
18 state prison for a minimum term of not less than 1 year and a
19 maximum term of not more than 6 years, or by a fine of not more
20 than \$5,000, or by both fine and imprisonment.

21 **Sec. 10.6.** NRS 200.481 is hereby amended to read as follows:
22 200.481 1. As used in this section:

23 (a) "Battery" means any willful and unlawful use of force or
24 violence upon the person of another.

25 (b) "Child" means a person less than 18 years of age.

26 (c) "Fire-fighting agency" has the meaning ascribed to it in
27 NRS 239B.020.

28 (d) "Officer" means:

29 (1) A person who possesses some or all of the powers of a
30 peace officer;

31 (2) A person employed in a full-time salaried occupation of
32 fire fighting for the benefit or safety of the public;

33 (3) A member of a volunteer fire department;

34 (4) A jailer, guard, matron or other correctional officer of a
35 city or county jail or detention facility;

36 (5) A prosecuting attorney of an agency or political
37 subdivision of the United States or of this State;

38 (6) A justice of the Supreme Court, judge of the Court of
39 Appeals, district judge, justice of the peace, municipal judge,
40 magistrate, court commissioner, master or referee, including,
41 without limitation, a person acting pro tempore in a capacity listed
42 in this subparagraph;

43 (7) An employee of this State or a political subdivision of
44 this State whose official duties require the employee to make home
45 visits;



1 (8) A civilian employee or a volunteer of a law enforcement
2 agency whose official duties require the employee or volunteer to:

3 (I) Interact with the public;

4 (II) Perform tasks related to law enforcement; and

5 (III) Wear identification, clothing or a uniform that
6 identifies the employee or volunteer as working or volunteering for
7 the law enforcement agency;

8 (9) A civilian employee or a volunteer of a fire-fighting
9 agency whose official duties require the employee or volunteer to:

10 (I) Interact with the public;

11 (II) Perform tasks related to fire fighting or fire
12 prevention; and

13 (III) Wear identification, clothing or a uniform that
14 identifies the employee or volunteer as working or volunteering for
15 the fire-fighting agency; or

16 (10) A civilian employee or volunteer of this State or a
17 political subdivision of this State whose official duties require the
18 employee or volunteer to:

19 (I) Interact with the public;

20 (II) Perform tasks related to code enforcement; and

21 (III) Wear identification, clothing or a uniform that
22 identifies the employee or volunteer as working or volunteering for
23 this State or a political subdivision of this State.

24 (e) "Provider of health care" has the meaning ascribed to it in
25 NRS 200.471.

26 (f) "School employee" means a licensed or unlicensed person
27 employed by a board of trustees of a school district pursuant to NRS
28 391.100 or 391.281.

29 (g) "Sporting event" has the meaning ascribed to it in
30 NRS 41.630.

31 (h) "Sports official" has the meaning ascribed to it in
32 NRS 41.630.

33 (i) "Strangulation" means intentionally impeding the normal
34 breathing or circulation of the blood by applying pressure on the
35 throat or neck or by blocking the nose or mouth of another person in
36 a manner that creates a risk of death or substantial bodily harm.

37 (j) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

38 (k) "Taxicab driver" means a person who operates a taxicab.

39 (l) "Transit operator" means a person who operates a bus or
40 other vehicle as part of a public mass transportation system.

41 (m) *"Utility worker" means an employee of a public utility as*
42 *defined in NRS 704.020 whose official duties require the employee*
43 *to:*

44 *(1) Interact with the public;*



1 (2) *Perform tasks related to the operation of the public*
2 *utility; and*

3 (3) *Wear identification, clothing or a uniform that*
4 *identifies the employee as working for the public utility.*

5 2. Except as otherwise provided in NRS 200.485, a person
6 convicted of a battery, other than a battery committed by an adult
7 upon a child which constitutes child abuse, shall be punished:

8 (a) If the battery is not committed with a deadly weapon, and no
9 substantial bodily harm to the victim results, except under
10 circumstances where a greater penalty is provided in this section or
11 NRS 197.090, for a misdemeanor.

12 (b) If the battery is not committed with a deadly weapon, and
13 either substantial bodily harm to the victim results or the battery is
14 committed by strangulation, for a category C felony as provided in
15 NRS 193.130.

16 (c) If:

17 (1) The battery is committed upon an officer, provider of
18 health care, school employee, taxicab driver, ~~or~~ transit operator *or*
19 *utility worker* who was performing his or her duty or upon a sports
20 official based on the performance of his or her duties at a sporting
21 event;

22 (2) The officer, provider of health care, school employee,
23 taxicab driver, transit operator, *utility worker* or sports official
24 suffers substantial bodily harm or the battery is committed by
25 strangulation; and

26 (3) The person charged knew or should have known that the
27 victim was an officer, provider of health care, school employee,
28 taxicab driver, transit operator, *utility worker* or sports official,
29 ➤ for a category B felony by imprisonment in the state prison for a
30 minimum term of not less than 2 years and a maximum term of not
31 more than 10 years, or by a fine of not more than \$10,000, or by
32 both fine and imprisonment.

33 (d) If the battery is committed upon an officer, provider of
34 health care, school employee, taxicab driver, ~~or~~ transit operator *or*
35 *utility worker* who is performing his or her duty or upon a sports
36 official based on the performance of his or her duties at a sporting
37 event and the person charged knew or should have known that the
38 victim was an officer, provider of health care, school employee,
39 taxicab driver, transit operator, *utility worker* or sports official, for
40 a gross misdemeanor, except under circumstances where a greater
41 penalty is provided in this section.

42 (e) If the battery is committed with the use of a deadly weapon,
43 and:

44 (1) No substantial bodily harm to the victim results, for a
45 category B felony by imprisonment in the state prison for a



1 minimum term of not less than 2 years and a maximum term of not
2 more than 10 years, and may be further punished by a fine of not
3 more than \$10,000.

4 (2) Substantial bodily harm to the victim results or the
5 battery is committed by strangulation, for a category B felony by
6 imprisonment in the state prison for a minimum term of not less
7 than 2 years and a maximum term of not more than 15 years, and
8 may be further punished by a fine of not more than \$10,000.

9 (f) If the battery is committed by a probationer, a prisoner who
10 is in lawful custody or confinement or a parolee, without the use of
11 a deadly weapon, whether or not substantial bodily harm results and
12 whether or not the battery is committed by strangulation, for a
13 category B felony by imprisonment in the state prison for a
14 minimum term of not less than 1 year and a maximum term of not
15 more than 6 years.

16 (g) If the battery is committed by a probationer, a prisoner who
17 is in lawful custody or confinement or a parolee, with the use of a
18 deadly weapon, and:

19 (1) No substantial bodily harm to the victim results, for a
20 category B felony by imprisonment in the state prison for a
21 minimum term of not less than 2 years and a maximum term of not
22 more than 10 years.

23 (2) Substantial bodily harm to the victim results or the
24 battery is committed by strangulation, for a category B felony by
25 imprisonment in the state prison for a minimum term of not less
26 than 2 years and a maximum term of not more than 15 years.

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

28 704.800 1. It is unlawful for a person to obtain any water,
29 gas, electricity, power or other service, goods or product provided
30 by a public utility with the intent to avoid payment therefor, by:

31 (a) Opening, breaking into, tapping or connecting with any pipe,
32 flume, ditch, conduit, reservoir, wire, meter or other apparatus
33 belonging to or used by any other person or by the State, any
34 county, city, district or municipality, and taking and removing
35 therefrom or allowing to flow or be taken therefrom any water, gas,
36 electricity or power belonging to another;

37 (b) Connecting a pipe, tube, flume, conduit, wire or other
38 instrument or appliance with any pipe, conduit, tube, flume, wire,
39 line, pole, lamp, meter or other apparatus belonging to or used by
40 any water, irrigation, gas, electric or power company or corporation,
41 or belonging to or used by any other person in such a manner as to
42 take therefrom water, gas, electricity or power for any purpose or
43 use without passing through the meter or instrument or other means
44 provided for registering the quantity consumed or supplied;



1 (c) Altering, disconnecting, removing, injuring or preventing the
2 action of any headgate, meter or other instrument used to measure or
3 register the quantity of water, gas, electricity or power used or
4 supplied; or

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

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

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

14 (b) *Intentionally or recklessly deface, damage or tamper with*
15 *the infrastructure.*

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

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

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

24 ➤ In determining the value of the service involved, the value of all
25 services unlawfully obtained or attempted to be obtained within 3
26 years before the time the indictment is found or the information is
27 filed may be aggregated.

28 ~~§~~ 4. This section applies when the service involved either
29 originates or terminates, or both originates and terminates, in this
30 state, or when the charges for the service would have been billable
31 in the normal course by a person providing the service in this state
32 but for the fact that the service was obtained or attempted to be
33 obtained by one or more of the means set forth in subsection 1.

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

35 704.805 1. Any public utility may bring a civil action for
36 damages against any person who ~~willfully~~ :

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

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

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



1 ~~[(e)]~~ (3) Altering, disconnecting, removing, injuring or
2 preventing the action of any meter or other instrument used to
3 register the quantity consumed or supplied ~~[(f)]~~; or

4 (b) *Violates subsection 2 of NRS 704.800,*
5 ↪ and recover a sum equal to treble the amount of the actual
6 damages, plus all reasonable costs and expenses incurred by the
7 public utility because of that conduct, including the cost of
8 equipment, investigating the matter and expert witnesses and
9 attorney's fees.

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

- 14 (a) Is the occupant of the premises; or
15 (b) Has any access to the system for delivery of the service to
16 the premises.

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

20 4. A person who willfully or negligently injures or destroys the
21 property of a public utility which is used in the actual production,
22 distribution or delivery of the service provided by the public utility
23 is liable to the public utility for the cost of the repair or replacement
24 of the property injured or destroyed, including the direct and indirect
25 costs attributable to the repair or replacement but subtracting the
26 value, if any, of salvage.

27 5. Nothing in this section abridges or alters any other right of
28 action or remedy available to a public utility before or after July 1,
29 1985.

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

- 32 (a) Labor;
33 (b) Materials;
34 (c) Supervision of employees;
35 (d) Supplies;
36 (e) Tools;
37 (f) Taxes;
38 (g) Transportation;
39 (h) General and administrative expenses;
40 (i) Allocable benefits for employees;
41 (j) Allowances for meals; and
42 (k) Any other related expenses.

