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RH/CL

P.L. 2018, CHAPTER 121, *approved October 4, 2018*
Assembly, No. 1053 (*First Reprint*)

1 AN ACT concerning trespass and vandalism on agricultural or
2 horticultural lands and amending various parts of the statutory
3 law.

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

7
8 1. Section 2 of P.L.1983, c.522 (C.2C:18-5) is amended to read
9 as follows:

10 2. It is an offense under **[this act]** P.L.1983, c.522 (C.2C:18-4
11 et seq.) to:

12 a. Knowingly or recklessly operate a motorized vehicle or to
13 ride horseback upon the lands of another without obtaining and in
14 possession of the written permission of the owner, occupant, **[or]**
15 lessee, or licensee thereof.

16 b. Knowingly or recklessly damage or injure any tangible
17 property, including, but not limited to, any fence, building,
18 feedstocks, crops, live trees, or any domestic animals, located on
19 the lands of another.

20 (cf: P.L.1983, c.522, s.2)

21
22 2. Section 3 of P.L.1983, c.522 (C.2C:18-6) is amended to read
23 as follows:

24 3. a. An offense pursuant to section 2 of **[this act]** P.L.1983,
25 c.522 (C.2C:18-5) is a crime of the third degree if the actor causes
26 pecuniary loss of **[\$2,000.00]** \$2,000 or more; a crime of the
27 fourth degree if the actor causes pecuniary loss **[in excess]** of
28 **[\$500.00]** more than \$500 but less than **[\$2,000.00]** \$2,000; and
29 a disorderly persons offense if **[he]** the actor causes pecuniary loss
30 of **[\$500.00]** \$500 or less.

31 b. The provisions of N.J.S.2C:43-3 to the contrary
32 notwithstanding, in addition to any other sentence which the court
33 may impose pursuant to subsection c. of this section or any other
34 provision of law, a person convicted of an offense under **[this act]**
35 P.L.1983, c.522 (C.2C:18-4 et seq.) shall be sentenced to make
36 restitution, and to pay a fine of not less than **[\$500.00]** \$500 if the
37 offense is a crime of the third degree; to pay a fine of not less than
38 **[\$200.00]** \$200 if the offense is a crime of the fourth degree; and
39 to pay a fine of not less than **[\$100.00]** \$100 when the conviction is
40 of a disorderly persons offense.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly amendments adopted in accordance with Governor's
recommendations August 27, 2018.

1 c. A person who is convicted of an offense pursuant to section
2 2 of P.L.1983, c.522 (C.2C:18-5), in addition to any other fine,
3 penalty, or restitution which may be imposed by law, ¹【is】 shall be¹
4 liable to the owner, occupant, lessee, or licensee of the lands or of
5 the tangible property for any reasonable and necessary expenses,
6 including reasonable attorney fees, incurred by the owner, occupant,
7 lessee, or licensee to ensure that the lands or the tangible property
8 are restored to their condition prior to commission of the offense.
9 The court shall ¹【make a finding of】 order the defendant to pay as
10 appropriate¹ the amount of expenses incurred ¹【and damages
11 sustained and order the defendant to pay as appropriate】 pursuant to
12 this subsection, unless the amount cannot be ascertained or is
13 subject to dispute in a manner that cannot be resolved without an
14 evidentiary hearing, in which case the amount shall be determined
15 in an action brought pursuant to R.S.4:17-2¹ .

16 (cf: P.L.1983, c.522, s.3)

17

18 3. R.S.4:17-2 is amended to read as follows:

19 4:17-2. **【Any】** a. Except as provided otherwise pursuant to
20 subsection b. of this section, any person who trespasses upon the
21 agricultural or horticultural lands of another is liable to a civil
22 penalty of not less than \$100.00, 【to be collected in a civil action by
23 a summary proceeding under "the penalty enforcement law"
24 (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction
25 to enforce "the penalty enforcement law." If the violation is of a
26 continuing nature, each day during which it continues constitutes an
27 additional, separate and distinct offense】 .

28 b. In addition to any other applicable fines, penalties, or
29 restitution that may be assessed pursuant to section 3 of P.L.1983,
30 c.522 (C.2C:18-6) or any other law, any person who knowingly or
31 recklessly operates a motorized vehicle or rides horseback upon the
32 lands of another without obtaining and in possession of the written
33 permission of the owner, occupant, lessee, or licensee thereof, or
34 damages or injures any tangible property, including, but not limited
35 to, any fence, building, feedstocks, crops, live trees, or any
36 domestic animals, located on the lands of another shall be liable to:

37 (1) a civil penalty of not less than \$1,000; and

38 (2) the owner, occupant, lessee, or licensee of the lands for any
39 reasonable and necessary expenses, including reasonable attorney
40 fees, incurred by the owner, occupant, lessee, or licensee to ensure
41 that the lands are restored to their condition prior to commission of
42 the offense.

43 The court shall make a finding of the amount of expenses
44 incurred and damages sustained and order the defendant to pay as
45 appropriate.

46 c. Any civil penalty imposed pursuant to subsection a. or b. of
47 this section shall be collected in a civil action by a summary

1 proceeding under the "Penalty Enforcement Law of 1999,"
2 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
3 municipal court shall have jurisdiction to enforce the "Penalty
4 Enforcement Law of 1999." If the violation is of a continuing
5 nature, each day during which it continues shall constitute an
6 additional, separate and distinct offense.

7 d. Nothing in this article shall relieve owners of agricultural or
8 horticultural lands from the obligation to provide conspicuous
9 posting prohibiting trespass on the waters or banks along or around
10 any waters listed for stocking with fish in the current fish code
11 adopted pursuant to section 32 of P.L.1948, c. 448 (C.13:1B-30)
12 before a trespass violation may be found.

13 e. As used in this [act] article, "agricultural or horticultural
14 lands" means lands devoted to the production for sale of plants and
15 animals useful to man, encompassing plowed or tilled fields,
16 standing crops or their residues, cranberry bogs and appurtenant
17 dams, dikes, canals, ditches and pump houses, including
18 impoundments, man-made reservoirs and the adjacent shorelines
19 thereto, orchards, nurseries and lands with a maintained fence for
20 the purpose of restraining domestic livestock. "Agricultural or
21 horticultural lands" shall also include lands in agricultural use, as
22 defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public
23 notice prohibiting trespass is given by actual communication to the
24 actor, conspicuous posting, or fencing or other enclosure manifestly
25 designed to exclude intruders. [Nothing in this act shall relieve
26 owners of agricultural or horticultural lands from the obligation to
27 provide conspicuous posting prohibiting trespass on the waters or
28 banks along or around any waters listed for stocking with fish in the
29 current fish code adopted pursuant to section 32 of P.L.1948, c. 448
30 (C.13:1B-30) before a trespass violation may be found.]
31 (cf: P.L.1991, c.91, s.172)

32

33 4. R.S.4:17-3 is amended to read as follows:

34 4:17-3. A person who shall violate any of the provisions of this
35 article may be arrested without warrant by the owner, occupant,
36 lessee, or licensee, or an officer of the law and taken for trial before
37 **[a court mentioned in section 4:17-2 of this Title]** the appropriate
38 court pursuant to R.S.4:17-2.

39 (cf: P.L.1953, c.5, s.42)

40

41 5. R.S.4:17-4 is amended to read as follows:

42 4:17-4. In a prosecution for violation of the provisions of this
43 article, the failure of the defendant to produce a written permit to
44 enter upon the lands upon which **[he]** the defendant is charged with
45 trespassing, signed by the owner, occupant, lessee, or licensee
46 thereof, shall be prima facie proof that **[he]** the defendant was
47 forbidden **[so to trespass by such]** by the owner, occupant, lessee,

1 or licensee to enter upon the lands of the owner, occupant, lessee, or
2 licensee.

3 (cf: R.S.4:17-4)

4

5 6. R.S.4:17-5 is amended to read as follows:

6 4:17-5. Upon the failure of a person convicted of violating the
7 provisions of this article to pay a fine as imposed **【as provided in】**
8 pursuant to this article, the court **【before whom the conviction is**
9 **had】** convicting the person may commit such person to the county
10 jail until the fine is paid.

11 (cf: P.L.1953, c.5, s. 43)

12

13 7. This act shall take effect immediately.

14

15

16

17

18 _____
19 Revises and expands laws on trespass and vandalism on
agricultural and horticultural lands.

ASSEMBLY, No. 1053

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman ADAM J. TALIAFERRO

District 3 (Cumberland, Gloucester and Salem)

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Assemblymen McKeon and Eustace

SYNOPSIS

Revises and expands laws on trespass and vandalism on agricultural and horticultural lands.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1053 HOUGHTALING, TALIAFERRO

2

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2 horticultural lands and amending various parts of the statutory
3 law.
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13 ride horseback upon the lands of another without obtaining and in
14 possession of the written permission of the owner, occupant, **[or]** ,
15 lessee, or licensee thereof.

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17 property, including, but not limited to, any fence, building,
18 feedstocks, crops, live trees, or any domestic animals, located on
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27 fourth degree if the actor causes pecuniary loss **[in excess]** of
28 **[\$500.00]** more than \$500 but less than **[\$2,000.00]** \$2,000; and
29 a disorderly persons offense if **[he]** the actor causes pecuniary loss
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33 may impose pursuant to subsection c. of this section or any other
34 provision of law, a person convicted of an offense under **[this act]**
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36 restitution, and to pay a fine of not less than **[\$500.00]** \$500 if the
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39 to pay a fine of not less than **[\$100.00]** \$100 when the conviction is
40 of a disorderly persons offense.

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42 2 of P.L.1983, c.522 (C.2C:18-5), in addition to any other fine,
43 penalty, or restitution which may be imposed by law, is liable to the
44 owner, occupant, lessee, or licensee of the lands or of the tangible

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
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Matter underlined thus is new matter.

1 property for any reasonable and necessary expenses, including
2 reasonable attorney fees, incurred by the owner, occupant, lessee, or
3 licensee to ensure that the lands or the tangible property are restored
4 to their condition prior to commission of the offense. The court
5 shall make a finding of the amount of expenses incurred and
6 damages sustained and order the defendant to pay as appropriate.
7 (cf: P.L.1983, c.522, s.3)

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12 agricultural or horticultural lands of another is liable to a civil
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14 a summary proceeding under "the penalty enforcement law"
15 (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction
16 to enforce "the penalty enforcement law." If the violation is of a
17 continuing nature, each day during which it continues constitutes an
18 additional, separate and distinct offense \$100 .

19 b. In addition to any other applicable fines, penalties, or
20 restitution that may be assessed pursuant to section 3 of P.L.1983,
21 c.522 (C.2C:18-6) or any other law, any person who knowingly or
22 recklessly operates a motorized vehicle or rides horseback upon the
23 lands of another without obtaining and in possession of the written
24 permission of the owner, occupant, lessee, or licensee thereof, or
25 damages or injures any tangible property, including, but not limited
26 to, any fence, building, feedstocks, crops, live trees, or any
27 domestic animals, located on the lands of another shall be liable to:

28 (1) a civil penalty of not less than \$1,000; and

29 (2) the owner, occupant, lessee, or licensee of the lands for any
30 reasonable and necessary expenses, including reasonable attorney
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32 that the lands are restored to their condition prior to commission of
33 the offense.

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39 proceeding under the "Penalty Enforcement Law of 1999,"
40 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
41 municipal court shall have jurisdiction to enforce the "Penalty
42 Enforcement Law of 1999." If the violation is of a continuing
43 nature, each day during which it continues shall constitute an
44 additional, separate and distinct offense.

45 d. Nothing in this article shall relieve owners of agricultural or
46 horticultural lands from the obligation to provide conspicuous
47 posting prohibiting trespass on the waters or banks along or around
48 any waters listed for stocking with fish in the current fish code

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2 before a trespass violation may be found.

3 e. As used in this **【act】** article, "agricultural or horticultural
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5 animals useful to man, encompassing plowed or tilled fields,
6 standing crops or their residues, cranberry bogs and appurtenant
7 dams, dikes, canals, ditches and pump houses, including
8 impoundments, man-made reservoirs and the adjacent shorelines
9 thereto, orchards, nurseries and lands with a maintained fence for
10 the purpose of restraining domestic livestock. "Agricultural or
11 horticultural lands" shall also include lands in agricultural use, as
12 defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public
13 notice prohibiting trespass is given by actual communication to the
14 actor, conspicuous posting, or fencing or other enclosure manifestly
15 designed to exclude intruders. **【Nothing in this act shall relieve**
16 **owners of agricultural or horticultural lands from the obligation to**
17 **provide conspicuous posting prohibiting trespass on the waters or**
18 **banks along or around any waters listed for stocking with fish in the**
19 **current fish code adopted pursuant to section 32 of P.L.1948, c. 448**
20 **(C.13:1B-30) before a trespass violation may be found.】**

21 (cf: P.L.1991, c.91, s.172)

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23 4. R.S.4:17-3 is amended to read as follows:

24 4:17-3. A person who shall violate any of the provisions of this
25 article may be arrested without warrant by the owner, occupant,
26 lessee, or licensee, or an officer of the law and taken for trial before
27 **【a court mentioned in section 4:17-2 of this Title】** the appropriate
28 court pursuant to R.S.4:17-2.

29 (cf: P.L.1953, c.5, s.42)

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31 5. R.S.4:17-4 is amended to read as follows:

32 4:17-4. In a prosecution for violation of the provisions of this
33 article, the failure of the defendant to produce a written permit to
34 enter upon the lands upon which **【he】** the defendant is charged with
35 trespassing, signed by the owner, occupant, lessee, or licensee
36 thereof, shall be prima facie proof that **【he】** the defendant was
37 forbidden **【so to trespass by such】** by the owner, occupant, lessee,
38 or licensee to enter upon the lands of the owner, lessee, or
39 licensee.

40 (cf: R.S.4:17-4)

41

42 6. R.S.4:17-5 is amended to read as follows:

43 4:17-5. Upon the failure of a person convicted of violating the
44 provisions of this article to pay a fine as imposed **【as provided in】**
45 pursuant to this article, the court **【before whom the conviction is**
46 **had】** convicting the person may commit such person to the county

1 jail until the fine is paid.
2 (cf: P.L.1953, c.5, s. 43)

3

4 7. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill revises, expands, and clarifies the restitution and
10 penalty provisions established in law for trespassers and vandals on
11 agricultural or horticultural lands.

12 Current law provides that it is a criminal offense to:

13 (1) knowingly or recklessly operate a motorized vehicle or ride
14 horseback upon the lands of another without obtaining and
15 possessing the written permission of the owner, occupant, or lessee
16 thereof; or

17 (2) knowingly or recklessly damage or injure any tangible
18 property, including, but not limited to, any fence, building,
19 feedstocks, crops, live trees, or any domestic animals, located on
20 the lands of another.

21 The degree of the offenses described above ranges under current
22 law from a disorderly persons offense to fourth degree or third
23 degree crime, depending upon the pecuniary loss involved. A
24 person convicted of one of these offenses is required to make
25 restitution and pay certain minimum mandatory fines in addition to
26 any other penalties that may be assessed for the particular degree of
27 the offense.

28 Current law also provides that a trespasser on agricultural or
29 horticultural lands is subject to a civil fine of at least \$100.

30 This bill provides that a person who is convicted of one of the
31 criminal offenses listed above is liable to the owner, occupant,
32 lessee, or licensee (the bill adds licensee to the list of possible
33 victims under the current law) of the lands or of the tangible
34 property for, in addition to any other fine, penalty, or restitution
35 which may be imposed by law, any reasonable and necessary
36 expenses, including reasonable attorney fees, incurred by the owner,
37 occupant, lessee, or licensee to ensure that the lands or the tangible
38 property are restored to their condition prior to commission of the
39 offense. The court hearing the case would be required to make a
40 finding of the amount of expenses incurred and damages sustained
41 and order the defendant to pay them as appropriate.

42 The bill establishes a civil penalty of at least \$1,000 for persons
43 who: (1) knowingly or recklessly operate a motorized vehicle or
44 ride horseback upon the lands of another without obtaining and
45 possessing the written permission of the owner, occupant, lessee, or
46 licensee thereof; or (2) knowingly or recklessly damage or injure
47 any tangible property, including, but not limited to, any fence,
48 building, feedstocks, crops, live trees, or any domestic animals,

A1053 HOUGHTALING, TALIAFERRO

6

1 located on the lands of another. For these civil offenses too, the
2 court hearing the case would be required to make a finding of the
3 amount of expenses incurred and damages sustained and order the
4 defendant to pay them as appropriate.

5 The committee amendments: (1) restore in the bill the civil
6 penalty for simple trespass on agricultural or horticultural lands to
7 the minimum \$100 fine in current law instead of the minimum
8 \$1,000 fine that would have been established by the bill as
9 introduced; (2) reorganize section 3 of the bill to improve clarity;
10 (3) remove from the bill specific language concerning certain
11 procedural steps a court would be required to take after adjudging
12 guilt or liability, thereby instead leaving the judicial process that is
13 to be followed in these cases to that which is followed in the usual
14 course of similar actions; (4) make technical changes; and (5)
15 update the title and synopsis.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1053

STATE OF NEW JERSEY

DATED: FEBRUARY 1, 2018

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Bill No. 1053.

This bill revises, expands, and clarifies the restitution and penalty provisions established in law for trespassers and vandals on agricultural or horticultural lands.

Current law provides that it is a criminal offense to:

(1) knowingly or recklessly operate a motorized vehicle or ride horseback upon the lands of another without obtaining and possessing the written permission of the owner, occupant, or lessee thereof; or

(2) knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks, crops, live trees, or any domestic animals, located on the lands of another.

The degree of the offenses described above ranges under current law from a disorderly persons offense to fourth degree or third degree crime, depending upon the pecuniary loss involved. A person convicted of one of these offenses is required to make restitution and pay certain minimum mandatory fines in addition to any other penalties that may be assessed for the particular degree of the offense.

This bill provides that a person who is convicted of one of the criminal offenses listed above is liable to the owner, occupant, lessee, or licensee (the bill adds licensee to the list of possible victims under the current law) of the lands or of the tangible property for, in addition to any other fine, penalty, or restitution which may be imposed by law, any reasonable and necessary expenses, including reasonable attorney fees, incurred by the owner, occupant, lessee, or licensee to ensure that the lands or the tangible property are restored to their condition prior to commission of the offense. The court hearing the case would be required to make a finding of the amount of expenses incurred and damages sustained and order the defendant to pay them as appropriate.

The bill establishes a civil penalty of at least \$1,000 for persons who: (1) knowingly or recklessly operate a motorized vehicle or ride horseback upon the lands of another without obtaining and possessing the written permission of the owner, occupant, lessee, or licensee thereof; or (2) knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks,

crops, live trees, or any domestic animals, located on the lands of another. For these civil offenses too, the court hearing the case would be required to make a finding of the amount of expenses incurred and damages sustained and order the defendant to pay them as appropriate.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1053

STATE OF NEW JERSEY

DATED: MAY 31, 2018

The Senate Economic Growth Committee reports favorably Assembly Bill No. 1053.

As reported, this bill revises, expands, and clarifies the restitution and penalty provisions established in law for trespassers and vandals on agricultural or horticultural lands.

Current law provides that it is a criminal offense to:

(1) knowingly or recklessly operate a motorized vehicle or ride horseback upon the lands of another without obtaining and possessing the written permission of the owner, occupant, or lessee thereof; or

(2) knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks, crops, live trees, or any domestic animals, located on the lands of another.

The degree of the offenses described above ranges from a disorderly persons offense to fourth degree or third degree crime under current law, depending upon the pecuniary loss involved. A person convicted of one of these offenses is required to make restitution and pay certain minimum fines in addition to any other penalties that may be assessed for the particular degree of the offense.

In addition to any other fine, penalty, or restitution which may be imposed by law, this bill provides that a person who is convicted of one of the criminal offenses listed above is liable to the owner, occupant, lessee, or licensee of the lands or of the tangible property, for any reasonable and necessary expenses, including reasonable attorney fees, incurred by the owner, occupant, lessee, or licensee to ensure that the lands or the tangible property are restored to their condition prior to commission of the offense. The court hearing the case is required to determine the amount of expenses incurred and damages sustained and order the defendant to pay them as appropriate.

The bill establishes a civil penalty of at least \$1,000 for persons who:

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crops, live trees, or any domestic animals, located on the lands of another.

For the above civil offenses, the court hearing the case is also required to determine the amount of expenses incurred and damages sustained, and to order the defendant to pay them as appropriate.

As reported, Assembly Bill No. 1053 is identical to Senate Bill No. 1429, which was also reported by the committee on this date.

SENATE, No. 1429

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senator Cruz-Perez

SYNOPSIS

Revises and expands laws on trespass and vandalism on agricultural and horticultural lands.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2018)

S1429 VAN DREW

2

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20 (cf: P.L.1983, c.522, s.2)

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22 2. Section 3 of P.L.1983, c.522 (C.2C:18-6) is amended to read
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26 pecuniary loss of **[\$2,000.00]** \$2,000 or more; a crime of the fourth
27 degree if the actor causes pecuniary loss **[in excess]** of **[\$500.00]**
28 more than \$500 but less than **[\$2,000.00]** \$2,000; and a disorderly
29 persons offense if **[he]** the actor causes pecuniary loss of
30 **[\$500.00]** \$500 or less.

31 b. The provisions of N.J.S.2C:43-3 to the contrary
32 notwithstanding, in addition to any other sentence which the court
33 may impose pursuant to subsection c. of this section or any other
34 provision of law, a person convicted of an offense under **[this act]**
35 P.L.1983, c.522 (C.2C:18-4 et seq.) shall be sentenced to make
36 restitution, and to pay a fine of not less than **[\$500.00]** \$500 if the
37 offense is a crime of the third degree; to pay a fine of not less than
38 **[\$200.00]** \$200 if the offense is a crime of the fourth degree; and to
39 pay a fine of not less than **[\$100.00]** \$100 when the conviction is
40 of a disorderly persons offense.

41 c. A person who is convicted of an offense pursuant to section
42 2 of P.L.1983, c.522 (C.2C:18-5), in addition to any other fine,
43 penalty, or restitution which may be imposed by law, is liable to the

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 owner, occupant, lessee, or licensee of the lands or of the tangible
2 property for any reasonable and necessary expenses, including
3 reasonable attorney fees, incurred by the owner, occupant, lessee, or
4 licensee to ensure that the lands or the tangible property are restored
5 to their condition prior to commission of the offense. The court
6 shall make a finding of the amount of expenses incurred and
7 damages sustained and order the defendant to pay as appropriate.

8 (cf: P.L.1983, c.522, s.3)

9

10 3. R.S.4:17-2 is amended to read as follows:

11 4:17-2. a. **【Any】** Except as provided otherwise pursuant to
12 subsection b. of this section, any person who trespasses upon the
13 agricultural or horticultural lands of another is liable to a civil
14 penalty of not less than **【\$100.00, to be collected in a civil action by**
15 a summary proceeding under "the penalty enforcement law"
16 (N.J.S.2A:58-1 et seq.). The Superior Court shall have jurisdiction
17 to enforce "the penalty enforcement law." If the violation is of a
18 continuing nature, each day during which it continues constitutes an
19 additional, separate and distinct offense**】 \$100.**

20 b. In addition to any other applicable fines, penalties, or
21 restitution that may be assessed pursuant to section 3 of P.L.1983,
22 c.522 (C.2C:18-6) or any other law, any person who knowingly or
23 recklessly operates a motorized vehicle or rides horseback upon the
24 lands of another without obtaining and in possession of the written
25 permission of the owner, occupant, lessee, or licensee thereof, or
26 damages or injures any tangible property, including, but not limited
27 to, any fence, building, feedstocks, crops, live trees, or any
28 domestic animals, located on the lands of another shall be liable to:

29 (1) a civil penalty of not less than \$1,000; and

30 (2) the owner, occupant, lessee, or licensee of the lands for any
31 reasonable and necessary expenses, including reasonable attorney
32 fees, incurred by the owner, occupant, lessee, or licensee to ensure
33 that the lands are restored to their condition prior to commission of
34 the offense.

35 The court shall make a finding of the amount of expenses
36 incurred and damages sustained and order the defendant to pay as
37 appropriate.

38 c. Any civil penalty imposed pursuant to subsection a. or b. of
39 this section shall be collected in a civil action by a summary
40 proceeding under the "Penalty Enforcement Law of 1999,"
41 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the
42 municipal court shall have jurisdiction to enforce the "Penalty
43 Enforcement Law of 1999." If the violation is of a continuing
44 nature, each day during which it continues shall constitute an
45 additional, separate and distinct offense.

46 d. Nothing in this article shall relieve owners of agricultural or
47 horticultural lands from the obligation to provide conspicuous
48 posting prohibiting trespass on the waters or banks along or around

1 any waters listed for stocking with fish in the current fish code
2 adopted pursuant to section 32 of P.L.1948, c. 448 (C.13:1B-30)
3 before a trespass violation may be found.

4 e. As used in this **【act】** article, "agricultural or horticultural
5 lands" means lands devoted to the production for sale of plants and
6 animals useful to man, encompassing plowed or tilled fields,
7 standing crops or their residues, cranberry bogs and appurtenant
8 dams, dikes, canals, ditches and pump houses, including
9 impoundments, man-made reservoirs and the adjacent shorelines
10 thereto, orchards, nurseries and lands with a maintained fence for
11 the purpose of restraining domestic livestock. "Agricultural or
12 horticultural lands" shall also include lands in agricultural use, as
13 defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public
14 notice prohibiting trespass is given by actual communication to the
15 actor, conspicuous posting, or fencing or other enclosure manifestly
16 designed to exclude intruders. **【Nothing in this act shall relieve**
17 **owners of agricultural or horticultural lands from the obligation to**
18 **provide conspicuous posting prohibiting trespass on the waters or**
19 **banks along or around any waters listed for stocking with fish in the**
20 **current fish code adopted pursuant to section 32 of P.L.1948, c. 448**
21 **(C.13:1B-30) before a trespass violation may be found.】**
22 (cf: P.L.1991, c.91, s.172)

23
24 4. R.S.4:17-3 is amended to read as follows:

25 4:17-3. A person who shall violate any of the provisions of this
26 article may be arrested without warrant by the owner, occupant,
27 lessee, or licensee, or an officer of the law and taken for trial before
28 **【a court mentioned in section 4:17-2 of this Title】** the appropriate
29 court pursuant to R.S.4:17-2.
30 (cf: P.L.1953, c.5, s.42)

31
32 5. R.S.4:17-4 is amended to read as follows:

33 4:17-4. In a prosecution for violation of the provisions of this
34 article, the failure of the defendant to produce a written permit to
35 enter upon the lands upon which **【he】** the defendant is charged with
36 trespassing, signed by the owner, occupant, lessee, or licensee
37 thereof, shall be prima facie proof that **【he】** the defendant was
38 forbidden **【so to trespass by such】** by the owner, occupant, lessee,
39 or licensee to enter upon the lands of the owner, occupant, lessee, or
40 licensee.
41 (cf: R.S.4:17-4)

42
43 6. R.S.4:17-5 is amended to read as follows:

44 4:17-5. Upon the failure of a person convicted of violating the
45 provisions of this article to pay a fine as imposed **【as provided in】**
46 pursuant to this article, the court **【before whom the conviction is**

1 had] convicting the person may commit such person to the county
2 jail until the fine is paid.
3 (cf: P.L.1953, c.5, s.43)

4

5 7. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill revises, expands, and clarifies the restitution and
11 penalty provisions established in law for trespassers and vandals on
12 agricultural or horticultural lands.

13 Current law provides that it is a criminal offense to:

14 (1) knowingly or recklessly operate a motorized vehicle or ride
15 horseback upon the lands of another without obtaining and
16 possessing the written permission of the owner, occupant, or lessee
17 thereof; or

18 (2) knowingly or recklessly damage or injure any tangible
19 property, including, but not limited to, any fence, building,
20 feedstocks, crops, live trees, or any domestic animals, located on
21 the lands of another.

22 The degree of the offenses described above ranges under current
23 law from a disorderly persons offense to fourth degree or third
24 degree crime, depending upon the pecuniary loss involved. A
25 person convicted of one of these offenses is required to make
26 restitution and pay certain minimum mandatory fines in addition to
27 any other penalties that may be assessed for the particular degree of
28 the offense.

29 Current law also provides that a trespasser on agricultural or
30 horticultural lands is subject to a civil fine of at least \$100.

31 This bill provides that a person who is convicted of one of the
32 criminal offenses listed above is liable to the owner, occupant,
33 lessee, or licensee (the bill adds licensee to the list of possible
34 victims under the current law) of the lands or of the tangible
35 property for, in addition to any other fine, penalty, or restitution
36 which may be imposed by law, any reasonable and necessary
37 expenses, including reasonable attorney fees, incurred by the owner,
38 occupant, lessee, or licensee to ensure that the lands or the tangible
39 property are restored to their condition prior to commission of the
40 offense. The court hearing the case would be required to make a
41 finding of the amount of expenses incurred and damages sustained
42 and order the defendant to pay them as appropriate.

43 The bill establishes a civil penalty of at least \$1,000 for persons
44 who: (1) knowingly or recklessly operate a motorized vehicle or
45 ride horseback upon the lands of another without obtaining and
46 possessing the written permission of the owner, occupant, lessee, or
47 licensee thereof; or (2) knowingly or recklessly damage or injure
48 any tangible property, including, but not limited to, any fence,

S1429 VAN DREW

6

1 building, feedstocks, crops, live trees, or any domestic animals,
2 located on the lands of another. For these civil offenses too, the
3 court hearing the case would be required to make a finding of the
4 amount of expenses incurred and damages sustained and order the
5 defendant to pay them as appropriate.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1429

STATE OF NEW JERSEY

DATED: MAY 31, 2018

The Senate Economic Growth Committee reports favorably Senate Bill No. 1429.

As reported, this bill revises, expands, and clarifies the restitution and penalty provisions established in law for trespassers and vandals on agricultural or horticultural lands.

Current law provides that it is a criminal offense to:

(1) knowingly or recklessly operate a motorized vehicle or ride horseback upon the lands of another without obtaining and possessing the written permission of the owner, occupant, or lessee thereof; or

(2) knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks, crops, live trees, or any domestic animals, located on the lands of another.

The degree of the offenses described above ranges from a disorderly persons offense to fourth degree or third degree crime under current law, depending upon the pecuniary loss involved. A person convicted of one of these offenses is required to make restitution and pay certain minimum fines in addition to any other penalties that may be assessed for the particular degree of the offense.

In addition to any other fine, penalty, or restitution which may be imposed by law, this bill provides that a person who is convicted of one of the criminal offenses listed above is liable to the owner, occupant, lessee, or licensee of the lands or of the tangible property for, any reasonable and necessary expenses, including reasonable attorney fees, incurred by the owner, occupant, lessee, or licensee to ensure that the lands or the tangible property are restored to their condition prior to commission of the offense. The court hearing the case is required to determine the amount of expenses incurred and damages sustained and order the defendant to pay them as appropriate.

The bill establishes a civil penalty of at least \$1,000 for persons who:

(1) knowingly or recklessly operate a motorized vehicle or ride horseback upon the lands of another without obtaining and possessing the written permission of the owner, occupant, lessee, or licensee thereof; or

(2) knowingly or recklessly damage or injure any tangible property, including, but not limited to, any fence, building, feedstocks,

crops, live trees, or any domestic animals, located on the lands of another.

For the above civil offenses, the court hearing the case is also required to determine the amount of expenses incurred and damages sustained, and to order the defendant to pay them as appropriate.

As reported, Senate Bill No. 1429 is identical to Assembly Bill No. 1053, which was also reported by the committee on this date.

ASSEMBLY BILL NO. 1053

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1053 with my recommendations for reconsideration.

This bill increases the civil and criminal penalties for trespassers and vandals of New Jersey's agricultural and horticultural lands. I commend the sponsors for bringing awareness to the unique challenges that trespass and vandalism pose to farmers and agricultural businesses and fully support policies that will better deter these activities and protect New Jersey's farmland.

While the bill's changes to the relevant criminal and civil statutes are laudable, one provision raises concerns. Specifically, the bill would establish a mechanism at criminal sentencing designed to compensate a property owner for expenses, above and beyond ordinary restitution, incurred to restore lands and property damaged by a trespasser. It should be noted that such an avenue for redress for such expenses (and civil penalties) already exists in civil court, which remedy a property owner is free to pursue independent of the criminal proceeding. In effect, this would create a right to a similar civil judicial proceeding to ascertain and award extraordinary restitution as part of the criminal prosecution. Such a change, which would represent a significant departure from current judicial practice, has the potential to burden prosecutors and delay criminal proceedings. This is particularly problematic in light of the resource demands related to complying with statutory deadlines imposed under the Criminal Justice Reform Act. Compounding this concern, expanding extraordinary restitution to criminal sentencing for the narrow subset of crimes identified in this bill treats certain crime

victims more advantageously than victims of other types of crimes, such as murder and sexual assault, that may fairly be considered equally or more serious than trespass and vandalism.

A more measured approach would modify this provision to allow the court to order the payment of such expenses if the amount is not in dispute or can be readily ascertained without an evidentiary hearing, while retaining the bill's enhanced civil and criminal penalties. My revisions accomplish the laudable objectives of this bill without creating an entirely new sentencing scheme for certain crimes that has the potential to burden the criminal court system.

Accordingly, I herewith return Assembly Bill No. 1053 and recommend that it be amended as follows:

Page 2, Section 2, Line 43: Delete "is" and insert "shall be"

Page 3, Section 2, Line 4: Delete "make a finding of" and insert "order the defendant to pay as appropriate"

Page 3, Section 2, Lines 4: Delete "and" and insert "pursuant to this subsection, unless the amount cannot be ascertained or is subject to dispute in a manner that cannot be resolved without an evidentiary hearing, in which case the amount shall be determined in an action brought pursuant to R.S.4:17-2."

Page 3, Section 2, Line 5: Delete in its entirety

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor



Newark, N.J.

Governor Murphy Takes Action on Legislation

08/27/2018

TRENTON – Today, Governor Phil Murphy announced that he has conditionally vetoed the following bills:

A-764/S-365 (Caputo, Tucker, Quijano, Vainieri Huttle, Sumter, McKnight, Conaway, Houghtaling/Rice, Ruiz, Bucco) – "Alyssa's Law"; requires public school buildings to be equipped with panic alarm linked to local law enforcement.

[Copy of Statement on A764](#)

A-1053/S-1429 (Houghtaling, Taliaferro, Andrzejczak/Van Drew) – Revises and expands laws on trespass and vandalism on agricultural and horticultural lands.

[Copy of Statement on A1053](#)

A-2762/S-1317 (Greenwald, Mukherji, Conaway/Ruiz, Singleton) – Revises law concerning temporary disability leave.

[Copy of Statement on A2762](#)

A-2763/S-342 (Greenwald, Downey/Cruz-Perez) – Requires additional data in annual temporary disability and family leave insurance reports.

[Copy of Statement on A2763](#)

A-3676/S-2307 (Mazzeo, Armato, Giblin/Sweeney, Van Drew, C.A. Brown) – Creates Garden State Growth Zone at Atlantic City International Airport and surrounding area; adjusts full-time employee designation requirements.

[Copy of Statement on A3676](#)

A-3683/S-2416 (Murphy, McKnight, Jones/Madden, Vitale) – Authorizes parking privileges for certain healthcare workers who render care at patients' home residences.

[Copy of Statement on A3683](#)

A-3703/S-2549 (DeAngelo/Cryan, Sweeney) – Revises ownership standards and exemptions under HVACR license law.

[Copy of Statement on A3703](#)

A-3754/S-2510 (McKnight, Speight, Barclay/Madden, Pennacchio) – Exempts persons providing hair braiding services from licensure requirement, requires registration of hair braiding establishments.

[Copy of Statement on A3754](#)

A-3808/S-2418 (Greenwald, Bramnick, Murphy/Singleton, Oroho) – Provides for prompt payment of public contracts for purchase of goods and services.

[Copy of Statement on A3808](#)

A-4118/S-1838 (Swain, Tully, Murphy/Ruiz, Diegnan) – Permits individuals to submit TDI and family temporary disability leave claims to DOLWD prior to commencement of leave under certain circumstances and requires timely payment of benefits for such claims.

[Copy of Statement on A4118](#)

ACS for A-4181/S-2722 (Jones, Murphy/Cruz-Perez) – Requires establishment of common enrollment system in renaissance school district; expands definition of urban campus area; clarifies that employees of renaissance school projects are in State-administered retirement systems.

[Copy of Statement on A4181](#)

A-4230/S-2752 (Burzichelli, Mukherji, Houghtaling, Downey/Gopal, Sarlo) – Changes use of certain revenue derived from sports wagering at racetracks.

[Copy of Statement on A4230](#)

A-4261/S-2794 (Burzichelli, Moriarty, Conaway/Sweeney, Singleton) – Provides for collection of sales tax from certain remote sellers.

[Copy of Statement on A4261](#)

A-4262/S-2795 (Pintor Marin/Sweeney) – Decouples certain provisions of corporation business tax from Internal Revenue Code; alters dividends received deduction; revises tax base of surtax on corporation business income; repeals tax on certain dividends.

[Copy of Statement on A4262](#)

S-250/A-3190 (Van Drew, Gopal/Land, Andrzejczak, Armato) – Provides tax credit eligibility for qualified businesses at certain airports under Grow New Jersey Assistance Program.

[Copy of Statement on S250](#)

S-844/A-1980 (Turner, Cruz-Perez/Sumter, Mukherji, Pintor Marin, Wimberly) – Establishes a partial return to work TDI program.

[Copy of Statement on S844](#)

S-866/A-3294 (Sweeney, Vitale/Vainieri Huttel, Mukherji) – Extends eligibility for certain individuals for emergency assistance.

[Copy of Statement on S866](#)

S-2293/A-3902 (Sweeney, Oroho, Gordon, A.R. Bucco/Benson, Burzichelli, Lampitt) – "Securing Our Children's Future Bond Act"; authorizes issuance of \$1,000,000,000 in general obligation bonds to finance certain school, school district, and county college capital projects; appropriates \$5,000.

[Copy of Statement on S2293](#)

S-2758/A-4212 (Vitale, Ruiz/Coughlin) – Increases financial resources provided through Medicaid program for certain hospitals; Establishes County Option Hospital Fee Pilot Program.

[Copy of Statement on S2758](#)

Governor Murphy announced that he has absolute vetoed the following bills:

A-3267/S-2600 (Vainieri Huttle, Pinkin, McKeon/Ruiz, Smith, Weinberg) – Establishes fee on single-use carryout bags used in certain stores and dedicates fee revenue to "Healthy Schools and Community Lead Abatement Fund."

[Copy of Statement on A3267](#)

S-878/A-3084 (Madden, Sweeney, Singleton/Greenwald, Moriarty, Jones) – Restricts authority to terminate reciprocal personal income tax agreements with other states.

[Copy of Statement on S878](#)

S-2662/A-4113 (Sweeney, Bateman/Burzichelli) – Limits liability for persons who deliver heating oil to unregulated tanks for discharges from that tank under certain circumstances.

[Copy of Statement on S2662](#)

[Back to Top](#)

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Home

Administration

[Governor Phil Murphy](#)

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[Oliver](#)

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[Snyder Murphy](#)

[Cabinet](#)

[Boards, Commissions](#)

[& Authorities](#)

[Internship](#)

Key Initiatives

[Economy & Jobs](#)

[Education](#)

[Environment](#)

[Health](#)

[Law & Justice](#)

[Transportation](#)

News & Events

[Press Releases](#)

[Public Addresses](#)

[Executive Orders](#)

Social

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Newark, N.J.

Governor Murphy Takes Action on Legislation

10/4/2018

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

A1053 w/GR (Houghtaling, Taliaferro, Andrzejczak/Van Drew) – Revises and expands laws on trespass and vandalism on agricultural and horticultural lands.

A2762 w/GR (Greenwald, Mukherji, Conaway/Ruiz, Singleton) – Revises law concerning temporary disability leave.

[Copy of Statement on A2762 w/GR](#)

A2763 w/GR (Greenwald, Downey, Pintor Marin/Cruz-Perez) – Requires additional data in annual temporary disability and family leave insurance reports.

[Copy of Statement on A2763 w/GR](#)

A3683 w/GR (Murphy, McKnight, Jones/Madden, Vitale) – Authorizes parking privileges for certain healthcare workers who render care at patients' home residences.

A3703 w/GR (DeAngelo/Cryan, Sweeney) – Revises ownership standards and exemptions under HVACR license law.

A3754 w/GR (McKnight, Speight, Barclay/Madden) – Exempts persons providing hair braiding services from licensure requirement, requires registration of hair braiding establishments.

A3808 w/GR (Greenwald, Bramnick, Murphy/Singleton, Oroho) – Provides for prompt payment of public contracts for purchase of goods and services.

A4118 w/GR (Swain, Tully, Murphy/Ruiz, Diegnan) – Permits individuals to submit TDI and family temporary disability leave claims to DOLWD prior to commencement of leave under certain circumstances and requires timely payment of benefits for such claims.

[Copy of Statement on A4118 w/GR](#)

A4181 w/GR (Jones, Murphy/Cruz-Perez) – Clarifies that employees of renaissance school projects are in State administered retirement systems.

[Copy of Statement on A4181 w/GR](#)

A4230 w/GR (Burzichelli, Mukherji, Houghtaling, Downey/Gopal, Sarlo) – Changes use of certain revenue derived from sports wagering at racetracks.

A4495 (Pintor Marin/Sarlo, Singleton) – Amends provisions regarding tax base and operative dates relative to CBT and combined reporting; provides CBT deduction in amount of certain foreign-related income; clarifies tax treatment of certain tax credits awarded by EDA.

[Copy of Statement on A4495](#)

A4496 (Burzichelli, Moriarty/Singleton) – Provides for collection of sales tax by marketplace facilitators and certain remote sellers, and clarifies collection of taxes related to hotel and transient accommodation occupancies.

[Back to Top](#)

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Statewide

Home

Administration

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[Snyder Murphy](#)

[Cabinet](#)

[Boards, Commissions](#)

[& Authorities](#)

[Internship](#)

[Opportunities](#)

[Governor's Residence](#)

[- Drumthwacket](#)

Key Initiatives

[Economy & Jobs](#)

[Education](#)

[Environment](#)

[Health](#)

[Law & Justice](#)

[Transportation](#)

News & Events

[Press Releases](#)

[Public Addresses](#)

[Executive Orders](#)

[Statements on](#)

[Legislation](#)

[Administration Reports](#)

[Transition Reports](#)

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