

Assembly Bill No. 321—Assemblymen Carter;
Anderson and La Rue Hatch

CHAPTER.....

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:

Sections 2-10 of this bill set forth certain requirements and restrictions concerning the manufacturing and sale of foil balloons, which **section 5** of this bill defines, in general, to mean a balloon that is constructed of electrically conductive material and that is not a hot air balloon or a balloon used in a governmental or scientific research project.

Section 2 sets forth certain legislative findings and declarations concerning foil balloons.

Section 7 of this bill requires a person who manufactures a foil balloon in this State to include certain markings on the foil balloon. **Section 7** also prohibits a person from selling, offering for sale or distributing a foil balloon that is filled with a gas that is lighter than air unless: (1) an object of sufficient weight is affixed to the balloon or its appurtenance to counter the lift capability of the foil balloon; and (2) no electrically conductive string, tether or streamer or other electrically conductive object is attached to the foil balloon.

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

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



those requirements. **Section 8** sets forth certain circumstances under which those deadlines may be extended.

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

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

Under existing law, if a person commits an assault upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty and the person knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver or a transit operator, the person is guilty of: (1) a category B felony if the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon; (2) a category D felony if the person is a probationer, prisoner or parolee; or (3) if neither of those circumstances is present, a gross misdemeanor. (NRS 200.471) Additionally, under existing law, if a person commits a battery upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator, and the person knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver or a transit operator, the person is guilty of: (1) a category B felony if the battery causes substantial bodily harm or is committed by strangulation; or (2) if those circumstances are not present and no greater penalty is provided by law, a gross misdemeanor. (NRS 200.481) **Sections 10.3 and 10.6** of this bill provide for the imposition of those penalties for an assault or battery committed upon a utility worker.

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

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. Electric utilities in this State are responsible for delivering safe, reliable energy through large transmission and distribution



networks. Equipment failure or damage from weather, animals and human activity can cause power outages.

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

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

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

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

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

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

Sec. 4. "Commission" means the Public Utilities Commission of Nevada.

Sec. 5. 1. "Foil balloon" means a balloon that is constructed of electrically conductive material.

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

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

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

(a) Identifies the manufacturer of the foil balloon.

(b) If the foil balloon meets the requirements of section 8 of this act, indicates that the foil balloon meets those requirements. If the Commission has adopted the P2845 Standard pursuant to section 9 of this act, any marking specified in the P2845 Standard



shall be deemed to be a suitable mark for the purposes of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

(a) *Twenty four months; or*

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

↳ whichever occurs later.

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

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

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

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

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

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

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

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

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

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

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

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

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



- (b) *If multiple violations occurred, the number of violations;*
- (c) *The economic effect of the civil penalty on the person;*
- (d) *The annual revenue of the person in both sales of foil balloons and total sales;*
- (e) *Whether the person took good faith measures to comply with the requirements of sections 2 to 10, inclusive, of this act and when such measures were taken;*
- (f) *The deterrent effect that the imposition of the penalty would have on both the person and the regulated community as a whole;*
- (g) *The willfulness of the person responsible for the violation;*
and
- (h) *Any other factors that justice may require.*

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

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

(a) "Assault" means:

- (1) Unlawfully attempting to use physical force against another person; or
- (2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

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

(c) "Officer" means:

- (1) A person who possesses some or all of the powers of a peace officer;
- (2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;
- (3) A member of a volunteer fire department;
- (4) A jailer, guard or other correctional officer of a city or county jail;
- (5) A prosecuting attorney of an agency or political subdivision of the United States or of this State;
- (6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph;
- (7) An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;



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

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

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

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

(I) Interact with the public;

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

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

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

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

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

(d) "Provider of health care" means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractic physician, a chiropractic assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian, the holder of a license or a limited license issued under the provisions of chapter 653 of NRS, an emergency medical technician, an advanced emergency medical technician and a paramedic.



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

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

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

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

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

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

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

(1) Interact with the public;

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

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

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

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

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

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver, ~~or~~ a transit operator ***or a utility worker*** who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator, ***a utility worker*** or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.



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

Sec. 10.6. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

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

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

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

(d) "Officer" means:

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

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

(3) A member of a volunteer fire department;

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

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

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

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

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

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and



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

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

(I) Interact with the public;

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

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

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

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

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

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

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

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

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

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

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

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

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

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

(1) Interact with the public;

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

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



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

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

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

(c) If:

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

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

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

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

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

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.



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

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

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

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

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

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

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

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

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

(c) Altering, disconnecting, removing, injuring or preventing the action of any headgate, meter or other instrument used to measure or



register the quantity of water, gas, electricity or power used or supplied; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

(b) Violates subsection 2 of NRS 704.800,

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

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

(a) Is the occupant of the premises; or

(b) Has any access to the system for delivery of the service to the premises.

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

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

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

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

(a) Labor;

(b) Materials;

(c) Supervision of employees;

(d) Supplies;

(e) Tools;

(f) Taxes;

(g) Transportation;

(h) General and administrative expenses;

(i) Allocable benefits for employees;

(j) Allowances for meals; and

(k) Any other related expenses.

