

SENATE BILL NO. 94—SENATOR SETTELMAYER

FEBRUARY 3, 2021

Referred to Committee on Judiciary

SUMMARY—Provides that an unlocked gate does not, in and of itself, constitute a public nuisance. (BDR 15-440)

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: No.

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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 nuisances; providing that an unlocked gate does not, in and of itself, constitute a public nuisance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law states that: (1) a public nuisance is a crime against the order and
2 economy of the State; and (2) a person commits a public nuisance if he or she
3 engages in certain activities. (NRS 202.450) A person who commits or maintains a
4 public nuisance for which no special punishment is prescribed is guilty of a
5 misdemeanor and a court may order the person to abate the nuisance and pay a civil
6 penalty of not less than \$500 but not more than \$5,000. (NRS 202.470, 202.480)
7 **Section 1** of this bill revises the provisions setting forth the activities that constitute
8 a public nuisance to specify that an unlocked gate does not, in and of itself,
9 constitute a public nuisance. **Sections 3-5** of this bill make conforming changes to
10 reflect the addition of the provision made by **section 1**.

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

1 **Section 1.** NRS 202.450 is hereby amended to read as follows:
2 202.450 1. A public nuisance is a crime against the order and
3 economy of the State.
4 2. Every place:
5 (a) Wherein any gambling, bookmaking or pool selling is
6 conducted without a license as provided by law, or wherein any



1 swindling game or device, or bucket shop, or any agency therefor is
2 conducted, or any article, apparatus or device useful therefor is kept;

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

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

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

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

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

13 (g) Where vagrants resort,

14 ↪ is a public nuisance.

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

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

19 (b) Offends public decency;

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

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

26 ↪ is a public nuisance.

27 4. A building or place which was used for the purpose of
28 unlawfully manufacturing a controlled substance, immediate
29 precursor or controlled substance analog is a public nuisance if the
30 building or place has not been deemed safe for habitation by the
31 board of health and:

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

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

44 5. It is a public nuisance for any person:



1 (a) By force, threat or intimidation, or by fencing or otherwise
2 enclosing, or by any other unlawful means, to prevent or obstruct
3 the free passage or transit over or through any:

4 (1) Highway designated as a United States highway;

5 (2) Highway designated as a state highway pursuant to
6 NRS 408.285;

7 (3) Main, general or minor county road designated pursuant
8 to NRS 403.170;

9 (4) Public road, as defined in subsection 2 of NRS 405.191;

10 (5) State land or other public land; or

11 (6) Land dedicated to public use; or

12 (b) To knowingly misrepresent the status of or assert any right
13 to the exclusive use and occupancy of such a highway, road, state
14 land or other public land or land dedicated to public use,

15 ➤ if the person has no leasehold interest, claim or color of title,
16 made or asserted in good faith, in or to the highway, road, state land
17 or other public land or land dedicated to public use.

18 6. *An unlocked gate does not, in and of itself, constitute a*
19 *public nuisance.*

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

27 ~~7.~~ 8. A shooting range is not a public nuisance with respect
28 to any noise attributable to the shooting range if the shooting range
29 is in compliance with the provisions of all applicable statutes,
30 ordinances and regulations concerning noise:

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

34 (b) As those provisions exist on the date that the shooting range
35 begins operation, for a shooting range in operation after October 1,
36 1997.

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

41 ~~8.~~ 9. A request for emergency assistance by a tenant as
42 described in NRS 118A.515 and 118B.152 is not a public nuisance.

43 ~~9.~~ 10. As used in this section:

44 (a) "Board of health" has the meaning ascribed to it in
45 NRS 439.4797.



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

3 (c) "Criminal gang" has the meaning ascribed to it in
4 NRS 193.168.

5 (d) "Immediate precursor" has the meaning ascribed to it in
6 NRS 453.086.

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

9 (f) "State land" has the meaning ascribed to it in
10 NRS 383.425.

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

12 **Sec. 3.** NRS 244.363 is hereby amended to read as follows:

13 244.363 Except as otherwise provided in subsection 3 of NRS
14 40.140 and subsection ~~7~~ 8 of NRS 202.450, the boards of county
15 commissioners in their respective counties may, by ordinance
16 regularly enacted, regulate, control and prohibit, as a public
17 nuisance, excessive noise which is injurious to health or which
18 interferes unreasonably with the comfortable enjoyment of life or
19 property within the boundaries of the county.

20 **Sec. 4.** NRS 266.335 is hereby amended to read as follows:

21 266.335 The city council may:

22 1. Except as otherwise provided in subsections 3 and 4 of NRS
23 40.140 and subsections ~~7~~ and 6, 8 and 9 of NRS 202.450,
24 determine by ordinance what shall be deemed nuisances.

25 2. Provide for the abatement, prevention and removal of the
26 nuisances at the expense of the person creating, causing or
27 committing the nuisances.

28 3. Provide that the expense of removal is a lien upon the
29 property upon which the nuisance is located. The lien must:

30 (a) Be perfected by recording with the county recorder a
31 statement by the city clerk of the amount of expenses due and
32 unpaid and describing the property subject to the lien.

33 (b) Be coequal with the latest lien thereon to secure the payment
34 of general taxes.

35 (c) Not be subject to extinguishment by the sale of any property
36 because of the nonpayment of general taxes.

37 (d) Be prior and superior to all liens, claims, encumbrances and
38 titles other than the liens of assessments and general taxes.

39 4. Provide any other penalty or punishment of persons
40 responsible for the nuisances.

41 **Sec. 5.** NRS 268.412 is hereby amended to read as follows:

42 268.412 Except as otherwise provided in subsection 3 of NRS
43 40.140 and subsection ~~7~~ 8 of NRS 202.450, the city council or
44 other governing body of a city may, by ordinance regularly enacted,
45 regulate, control and prohibit, as a public nuisance, excessive noise



1 which is injurious to health or which interferes unreasonably with
2 the comfortable enjoyment of life or property within the boundaries
3 of the city.

4 **Sec. 6.** (Deleted by amendment.)

5 **Sec. 7.** (Deleted by amendment.)



