

CHAPTER 121

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

C.2C:18-5 Offense to trespass, damage property.

2. It is an offense under P.L.1983, c.522 (C.2C:18-4 et seq.) to:

- a. Knowingly or recklessly operate a motorized vehicle or to ride horseback upon the lands of another without obtaining and in possession of the written permission of the owner, occupant, lessee, or licensee thereof.

- b. 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.

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

C.2C:18-6 Degree of crime; penalties; restitution; liability to owner of property.

3. a. An offense pursuant to section 2 of P.L.1983, c.522 (C.2C:18-5) is a crime of the third degree if the actor causes pecuniary loss of \$2,000 or more; a crime of the fourth degree if the actor causes pecuniary loss of more than \$500 but less than \$2,000; and a disorderly persons offense if the actor causes pecuniary loss of \$500 or less.

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

- c. A person who is convicted of an offense pursuant to section 2 of P.L.1983, c.522 (C.2C:18-5), in addition to any other fine, penalty, or restitution which may be imposed by law, shall be 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 shall order the defendant to pay as appropriate the amount of expenses incurred 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 .

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

Trespass; enforcement; penalties; liability.

- 4:17-2. a. Except as provided otherwise pursuant to subsection b. of this section, any person who trespasses upon the agricultural or horticultural lands of another is liable to a civil penalty of not less than \$100.00.

- b. In addition to any other applicable fines, penalties, or restitution that may be assessed pursuant to section 3 of P.L.1983, c.522 (C.2C:18-6) or any other law, any person who knowingly or recklessly operates a motorized vehicle or rides horseback upon the lands of

another without obtaining and in possession of the written permission of the owner, occupant, lessee, or licensee thereof, or damages or injures 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 shall be liable to:

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

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

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

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

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

e. As used in this article, "agricultural or horticultural lands" means lands devoted to the production for sale of plants and animals useful to man, encompassing plowed or tilled fields, standing crops or their residues, cranberry bogs and appurtenant dams, dikes, canals, ditches and pump houses, including impoundments, man-made reservoirs and the adjacent shorelines thereto, orchards, nurseries and lands with a maintained fence for the purpose of restraining domestic livestock. "Agricultural or horticultural lands" shall also include lands in agricultural use, as defined in section 3 of P.L.1983, c.32 (C.4:1C-13) where public notice prohibiting trespass is given by actual communication to the actor, conspicuous posting, or fencing or other enclosure manifestly designed to exclude intruders.

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

Arrest of offenders without warrant.

4:17-3. A person who shall violate any of the provisions of this article may be arrested without warrant by the owner, occupant, lessee, or licensee, or an officer of the law and taken for trial before the appropriate court pursuant to R.S.4:17-2.

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

Failure to produce permit as evidence.

4:17-4. In a prosecution for violation of the provisions of this article, the failure of the defendant to produce a written permit to enter upon the lands upon which the defendant is charged with trespassing, signed by the owner, occupant, lessee, or licensee thereof, shall be prima facie proof that the defendant was forbidden by the owner, occupant, lessee, or licensee to enter upon the lands of the owner, occupant, lessee, or licensee.

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

Jail for non-payment of fine.

4:17-5. Upon the failure of a person convicted of violating the provisions of this article to pay a fine as imposed pursuant to this article, the court convicting the person may commit such person to the county jail until the fine is paid.

7. This act shall take effect immediately.

Approved October 4, 2018.