

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 405*

Short Title: Property Protection Act. (Public)

Sponsors: Representatives Szoka, Whitmire, Jordan, and R. Moore (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

April 1, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT PROPERTY OWNERS FROM DAMAGES RESULTING FROM
3 INDIVIDUALS ACTING IN EXCESS OF THE SCOPE OF PERMISSIBLE ACCESS
4 AND CONDUCT GRANTED TO THEM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 99A of the General Statutes reads as rewritten:

7 **"Chapter 99A.**

8 **"Civil Remedies for ~~Criminal Actions.~~Interference With Property.**

9 **"§ 99A-1. Recovery of damages for interference with property rights.**

10 Notwithstanding any other provisions of the General Statutes of North Carolina, when
11 personal property is wrongfully taken and carried away from the owner or person in lawful
12 possession of such property without his consent and with the intent to permanently deprive him
13 of the use, possession and enjoyment of said property, a right of action arises for recovery of
14 actual and punitive damages from any person who has or has had, possession of said property
15 knowing the property to be stolen.

16 An agent having possession, actual or constructive, of property lawfully owned by his
17 principal, shall have a right of action in behalf of his principal for any unlawful interference
18 with that possession by a third person.

19 In cases of bailments where the possession is in the bailee, a trespass committed during the
20 existence of the bailment shall give a right of action to the bailee for the interference with his
21 special property and a concurrent right of action to the bailor for the interference with his
22 general property.

23 Any abuse of, or damage done to, the personal property of another or one who is in
24 possession thereof, unlawfully, is a trespass for which damages may be recovered.

25 **"§ 99A-2. Recovery of damages for exceeding the scope of authorized access to property.**

26 (a) Any person who gains access to the nonpublic areas of another's premises and
27 engages in an act that exceeds the person's authority to enter those areas is liable to the owner
28 or operator of the premises for any damages sustained. For the purposes of this section,
29 "nonpublic areas" shall mean those areas not accessible to or not intended to be accessed by the
30 general public.

31 (b) For the purposes of this section, acts that exceed a person's authority to enter the
32 nonpublic areas of another's premises include, but are not limited to, the following:

33 (1) An employee who seeks to enter or enters the nonpublic areas of an
34 employer's premises for a reason other than a bona fide intent of seeking or
35 holding employment or doing business with the employer and thereafter



- 1 without authorization captures or removes the employer's data, paper,
2 records, or any other documents for the purpose of using the information to
3 breach the person's duty of loyalty to the employer.
4 (2) An employee who, without authorization, creates or produces an image or
5 sound occurring within an employer's premises and uses the recording to
6 breach the person's duty of loyalty to the employer.
7 (3) Knowingly or intentionally placing on the employer's premises an
8 unattended camera or electronic surveillance device and using that device to
9 record images or data.
10 (4) Conspiring in organized retail theft, as defined in Article 16A of Chapter 14
11 of the General Statutes.
12 (5) Acts that interfere with the ownership or possession of real property.
13 (c) Any person who directs, assists, compensates, or induces another person to violate
14 this section shall be jointly liable.
15 (d) A court may award to a plaintiff who prevails in an action brought pursuant to this
16 section one or more of the following remedies:
17 (1) Equitable relief.
18 (2) Damages.
19 (3) Costs and fees, including reasonable attorneys' fees.
20 (4) Exemplary damages in the amount of five thousand dollars (\$5,000) for each
21 day, or portion thereof, that a defendant has acted in violation of subsection
22 (a) of this section.
23 (e) Nothing in this section shall be construed to diminish the protections provided to
24 employees under Article 21 of Chapter 95 or Article 14 of Chapter 126 of the General Statutes.
25 (f) This section shall not apply to any governmental agency or law enforcement officer
26 engaged in a lawful investigation of the premises or the owner or operator of the premises.
27 (g) Nothing in this section shall be construed to limit any other remedy available at
28 common law or provided by the General Statutes."

29 **SECTION 2.** This act becomes effective January 1, 2016.