

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 405\*  
PROPOSED COMMITTEE SUBSTITUTE H405-PCS20321-RN-9

Short Title: Property Protection Act.

(Public)

Sponsors:

Referred to:

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

31 (b) For the purposes of this section, an act that exceeds a person's authority to enter the  
32 nonpublic areas of another's premises is any of the following:

- 33 (1) An employee who enters the nonpublic areas of an employer's premises for a  
34 reason other than a bona fide intent of seeking or holding employment or  
35 doing business with the employer and thereafter without authorization  
36 captures or removes the employer's data, paper, records, or any other



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- 1                    documents and uses the information to breach the person's duty of loyalty to  
2                    the employer.
- 3                    (2)                An employee who intentionally enters the nonpublic areas of an employer's  
4                    premises for a reason other than a bona fide intent of seeking or holding  
5                    employment or doing business with the employer and thereafter without  
6                    authorization records images or sound occurring within an employer's  
7                    premises and uses the recording to breach the person's duty of loyalty to the  
8                    employer.
- 9                    (3)                Knowingly or intentionally placing on the employer's premises an  
10                   unattended camera or electronic surveillance device and using that device to  
11                   record images or data.
- 12                   (4)                Conspiring in organized retail theft, as defined in Article 16A of Chapter 14  
13                   of the General Statutes.
- 14                   (5)                An act that substantially interferes with the ownership or possession of real  
15                   property.
- 16                   (c)                Any person who intentionally directs, assists, compensates, or induces another  
17                   person to violate this section shall be jointly liable.
- 18                   (d)                A court may award to a party who prevails in an action brought pursuant to this  
19                   section one or more of the following remedies:
- 20                   (1)                Equitable relief.
- 21                   (2)                Compensatory damages as otherwise allowed by State or federal law.
- 22                   (3)                Costs and fees, including reasonable attorneys' fees.
- 23                   (4)                Exemplary damages as otherwise allowed by State or federal law in the  
24                   amount of five thousand dollars (\$5,000) for each day, or portion thereof,  
25                   that a defendant has acted in violation of subsection (a) of this section.
- 26                   (e)                Nothing in this section shall be construed to diminish the protections provided to  
27                   employees under Article 21 of Chapter 95 or Article 14 of Chapter 126 of the General Statutes,  
28                   nor may any party who is covered by these Articles be liable under this section.
- 29                   (f)                This section shall not apply to any governmental agency or law enforcement officer  
30                   engaged in a lawful investigation of the premises or the owner or operator of the premises.
- 31                   (g)                Nothing in this section shall be construed to limit any other remedy available at  
32                   common law or provided by the General Statutes."

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