

JAN 22 2007

S.B. NO. 1449

A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS IN THE SECOND DEGREE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that public housing
2 properties administered by the Hawaii public housing authority
3 are considered private residential properties for purposes of
4 criminal law and similarly face problems with trespassers. Many
5 times these trespassers loiter, vandalize, and abuse alcohol on
6 public housing properties.

7 SECTION 2. Section 708-814, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "(1) A person commits the offenses of criminal trespass in
10 the second degree if:

11 (a) The person knowingly enters or remains unlawfully in
12 or upon premises that are enclosed in a manner
13 designed to exclude intruders or are fenced;

14 (b) The person enters or remains unlawfully in or upon
15 commercial premises after a reasonable warning or
16 request to leave by the owner or lessee of the
17 commercial premises, the owner's or lessee's
18 authorized agent, or a police officer; provided that

1 this paragraph shall not apply to any conduct or
2 activity subject to regulation by the National Labor
3 Relations Act [-];

4 ~~[For purposes of this paragraph, "reasonable~~
5 ~~warning or request" means a warning or request~~
6 ~~communicated in writing at any time within a one-year~~
7 ~~period inclusive of the date the incident occurred,~~
8 ~~which may contain but is not limited to the following~~
9 ~~information:~~

10 ~~(i) A warning statement advising the person that the~~
11 ~~person's presence is no longer desired on the~~
12 ~~property for a period of one year from the date~~
13 ~~of the notice, that a violation of the warning~~
14 ~~will subject the person to arrest and prosecution~~
15 ~~for trespassing pursuant to section 708-~~
16 ~~814(1)(b), and that criminal trespass in the~~
17 ~~second degree is a petty misdemeanor;~~

18 ~~(ii) The legal name, any aliases, and a photograph, if~~
19 ~~practicable, or a physical description, including~~
20 ~~but not limited to sex, racial extraction, age,~~
21 ~~height, weight, hair color, eye color, or any~~

- 1 ~~other distinguishing characteristics of the~~
2 ~~person warned,~~
- 3 ~~(iii) The name of the person giving the warning along~~
4 ~~with the date and time the warning was given, and~~
- 5 ~~(iv) The signature of the person giving the warning,~~
6 ~~the signature of a witness or police officer who~~
7 ~~was present when the warning was given and, if~~
8 ~~possible, the signature of the violator, or]~~
- 9 (c) The person enters or remains on agricultural lands
10 without the permission of the owner of the land, the
11 owner's agent, or the person in lawful possession of
12 the land, and the agricultural lands:
- 13 (i) Are fenced, enclosed, or secured in a manner
14 designed to exclude intruders;
- 15 (ii) Have a sign or signs displayed on the unenclosed
16 cultivated or uncultivated agricultural land
17 sufficient to give notice and reading as follows:
18 "Private Property." The sign or signs,
19 containing letters not less than two inches in
20 height, shall be placed along the boundary line
21 of the land at roads and trails entering the land

1 in a manner and position as to be clearly
2 noticeable from outside the boundary line; or
3 (iii) At the time of entry, have a visible presence of
4 a crop:

- 5 (A) Under cultivation;
- 6 (B) In the process of being harvested; or
- 7 (C) That has been harvested[-]; or

8 (d) The person enters or remains unlawfully in or upon the
9 premises of any public housing project, after
10 reasonable warning or request to leave by housing
11 authorities or a police officer. For purposes of this
12 section, "public housing project" means a housing
13 project directly controlled, owned, developed, or
14 managed by the Hawaii public housing authority or the
15 Hawaii housing finance and development corporation
16 pursuant to parts II, III, and IV of chapter 356D.

17 (2) For purposes of this section, "reasonable warning or
18 request" means a warning or request communicated in writing at
19 any time within a one-year period inclusive of the date the
20 incident occurred, which may contain but is not limited to the
21 following information:

1 (a) A warning statement advising the person that the
2 person's presence is no longer desired on the property
3 for a period of one year from the date of the notice,
4 that a violation of the warning will subject the
5 person to arrest and prosecution for trespassing
6 pursuant to section 708-814(1)(b), and that criminal
7 trespass in the second degree is a petty misdemeanor;

8 (b) The legal name, any aliases, and a photograph, if
9 practicable, or a physical description, including but
10 not limited to sex, racial extraction, age, height,
11 weight, hair color, eye color, or any other
12 distinguishing characteristics of the person warned;

13 (c) The name of the person giving the warning along with
14 the date and time the warning was given; and

15 (d) The signature of the person giving the warning, the
16 signature of a witness or police officer who was
17 present when the warning was given and, if possible,
18 the signature of the violator.

19 [~~2~~] (3) Criminal trespass in the second degree is a petty
20 misdemeanor."

S.B. NO. 1449

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7
8 INTRODUCED BY: _____

9 BY REQUEST

SB 1449

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO CRIMINAL TRESPASS IN THE SECOND DEGREE.

PURPOSE: To enhance the safety and well-being of public housing residents by making criminal trespass in the second degree applicable to public housing projects administered by the Hawaii Public Housing Authority.

MEANS: Amend section 708-814, Hawaii Revised Statutes.

JUSTIFICATION: In order to provide public housing residents with a safe and decent living environment, the Hawaii Public Housing Authority and police officers must have supporting laws to make their jobs well-defined. Presently, the police do not have the authority to place persons charged with simple trespass on public housing properties under physical arrest. This measure will curb loitering, vandalism, and drinking on public housing properties by making criminal trespass in the second degree applicable to public housing projects.

Impact on the public: Improves living environment for public housing residents.

Impact on the department and other agencies: Provides the Hawaii Public Housing Authority, working with the county police departments, with an effective means of removing persons who trespass and create a disturbance on public housing properties.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HMS 220 Rental Housing Services.

SB 1449

OTHER AFFECTED

AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.