
A BILL FOR AN ACT

RELATING TO TRESPASSING.

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

1 SECTION 1. Section 708-814, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§708-814 Criminal trespass in the second degree. (1) A
4 person commits the offense of criminal trespass in the second
5 degree if:

6 (a) The person knowingly enters or remains unlawfully in
7 or upon premises that are enclosed in a manner
8 designed to exclude intruders or are fenced;

9 (b) The person enters or remains unlawfully in or upon
10 commercial premises after a reasonable warning or
11 request to leave by the owner or lessee of the
12 commercial premises, the owner's or lessee's
13 authorized agent, or a [~~police officer,~~] law
14 enforcement officer; provided that this paragraph
15 shall not apply to any conduct or activity subject to
16 regulation by the National Labor Relations Act.

17 For the purposes of this paragraph, "reasonable
18 warning or request" means a warning or request



1 communicated in writing at any time within a one-year
2 period inclusive of the date the incident occurred,
3 which may contain but is not limited to the following
4 information:

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

13 (ii) The legal name, any aliases, and a photograph, if
14 practicable, or a physical description, including
15 but not limited to sex, racial extraction, age,
16 height, weight, hair color, eye color, or any
17 other distinguishing characteristics of the
18 person warned;

19 (iii) The name of the person giving the warning along
20 with the date and time the warning was given; and

21 (iv) The signature of the person giving the warning,
22 the signature of a witness or [~~police officer~~]



1 law enforcement officer who was present when the
2 warning was given and, if possible, the signature
3 of the violator; or

4 (c) The person enters or remains on agricultural lands
5 without the permission of the owner of the land, the
6 owner's agent, or the person in lawful possession of
7 the land, and the agricultural lands:

8 (i) Are fenced, enclosed, or secured in a manner
9 designed to exclude intruders;

10 (ii) Have a sign or signs displayed on the unenclosed
11 cultivated or uncultivated agricultural land
12 sufficient to give notice and reading as follows:
13 "Private Property". The sign or signs,
14 containing letters not less than two inches in
15 height, shall be placed along the boundary line
16 of the land and at roads and trails entering the
17 land in a manner and position as to be clearly
18 noticeable from outside the boundary line; or

19 (iii) At the time of entry, have a visible presence of
20 a crop:

21 (A) Under cultivation;

22 (B) In the process of being harvested; or



1 (C) That has been harvested.

2 (2) A law enforcement officer, may, without warrant,
3 arrest and detain for examination any person when the officer
4 has probable cause to believe that the person has committed an
5 offense under this section, even if the offense was not
6 committed in the officer's presence. Anyone in the act of
7 committing an offense under this section may be arrested by any
8 person present. For purposes of this section, "law enforcement
9 officer" has the same meaning as provided in section 710-1000.

10 [~~2~~] (3) Criminal trespass in the second degree is a
11 petty misdemeanor."

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

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Mele Caruso

Rick Caruso [Signature] [Signature]
Karen Curran
[Signature]

Report Title:

Criminal Trespass; Enforcement

Description:

Clarifies the authority of a police officer to arrest a person suspected of committing the offense of criminal trespass in the second degree upon a reasonable suspicion.

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