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# A BILL FOR AN ACT

RELATING TO TRESPASS.

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

1           SECTION 1. Section 708-800, Hawaii Revised Statutes, is  
2 amended by amending the definition of "enter or remain  
3 unlawfully" to read as follows:

4           "Enter or remain unlawfully." A person "enters or remains  
5 unlawfully" in or upon premises when the person is not licensed,  
6 invited, or otherwise privileged to do so. A person who,  
7 regardless of the person's intent, enters or remains in or upon  
8 premises which are at the time open to the public does so with  
9 license and privilege unless the person defies a lawful order  
10 not to enter or remain, personally communicated to the person by  
11 the owner of the premises or some other authorized person. A  
12 license or privilege to enter or remain in a building which is  
13 only partly open to the public is not a license or privilege to  
14 enter or remain in that part of the building which is not open  
15 to the public. [~~A person who enters or remains upon unimproved  
16 and apparently unused land, which is neither fenced nor  
17 otherwise enclosed in a manner designed to exclude intruders,  
18 does so with license and privilege unless notice against~~



1 ~~trespass is personally communicated to the person by the owner~~  
2 ~~of the land or some other authorized person, or unless notice is~~  
3 ~~given by posting in a conspicuous manner.] "~~

4 SECTION 2. Section 708-814, Hawaii Revised Statutes, is  
5 amended by amending subsection (1) to read as follows:

6 "(1) A person commits the offense of criminal trespass in  
7 the second degree if:

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

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

19 For the purposes of this paragraph, "reasonable  
20 warning or request" means a warning or request  
21 communicated in writing at any time within a one-year  
22 period inclusive of the date the incident occurred,



1           which may contain but is not limited to the following  
2           information:

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

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

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

19          (iv)   The signature of the person giving the warning,  
20          the signature of a witness or police officer who  
21          was present when the warning was given and, if  
22          possible, the signature of the violator; [e#]



- 1 (c) The person enters or remains unlawfully on  
2 agricultural lands without the permission of the owner  
3 of the land, the owner's agent, or the person in  
4 lawful possession of the land, and the agricultural  
5 lands:
- 6 (i) Are fenced, enclosed, or secured in a manner  
7 designed to exclude intruders;
- 8 (ii) Have a sign or signs displayed on the unenclosed  
9 cultivated or uncultivated agricultural land  
10 sufficient to give notice and reading as follows:  
11 "Private Property". The sign or signs,  
12 containing letters not less than two inches in  
13 height, shall be placed along the boundary line  
14 of the land and at roads and trails entering the  
15 land in a manner and position as to be clearly  
16 noticeable from outside the boundary line; or
- 17 (iii) At the time of entry, are fallow or have a  
18 visible presence of livestock or a crop:
- 19 (A) Under cultivation;
- 20 (B) In the process of being harvested; or
- 21 (C) That has been harvested[-];
- 22 or



1        (d) The person enters or remains unlawfully on unimproved  
2        lands or unused lands without the permission of the  
3        owner of the land, the owner's agent, or the person in  
4        lawful possession of the land, and the lands:

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

7        (ii) Have a sign or signs displayed on the unenclosed,  
8        unimproved, or unused land sufficient to give  
9        reasonable notice and reads as follows: "Private  
10       Property". The sign or signs, containing letters  
11       not less than two inches in height, shall be  
12       placed along the boundary line of the land and at  
13       roads and trails entering the land in a manner  
14       and position as to be clearly noticeable from  
15       outside the boundary line."

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

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

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



**Report Title:**

Trespass; Unimproved or Unused Land

**Description:**

Strengthens trespass provisions regarding a person who enters or remains unlawfully on unimproved or unused land; adds entering and remaining on unimproved or unused land that is fenced or enclosed, or with a "private property" sign, to the offense of criminal trespass in the second degree. (HB227 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

