

JAN 20 2011

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 to read as follows:

6 "§708-814 **Criminal trespass in the second degree.** (1) A
7 person commits the offense of criminal trespass in the second
8 degree if:

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

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

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



1 period inclusive of the date the incident occurred,
2 which may contain but is not limited to the following
3 information:

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

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

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

20 (iv) The signature of the person giving the warning,
21 the signature of a witness or police officer who



1 was present when the warning was given and, if
2 possible, the signature of the violator; [e]

3 (c) The person enters or remains unlawfully on
4 agricultural lands without the permission of the owner
5 of the land, the owner's agent, or the person in
6 lawful possession of the land, and the agricultural
7 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[-]; or
2 (d) The person enters or remains unlawfully on unimproved
3 lands or unused lands without the permission of the
4 owner of the land, the owner's agent, or the person in
5 lawful possession of the land, and the lands:

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

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

17 (2) Criminal trespass in the second degree is a petty
18 misdemeanor."

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

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

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

4

INTRODUCED BY:

Dana DeLano



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.

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

