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



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

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

7 "(1) A person commits the offense of criminal trespass in  
8 the second 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; [~~o~~]

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, are fallow or have a  
20                    visible presence of livestock or a crop:

21                    (A)    Under cultivation;

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



1 (C) That has been harvested[-];

2 or

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

7 (i) Are fenced, enclosed, or secured in a manner  
8 designed to exclude the general public; or

9 (ii) Have a sign or signs displayed on the unenclosed,  
10 unimproved, or unused land sufficient to give  
11 reasonable notice and reads as follows: "Private  
12 Property - No Trespassing" or a substantially  
13 similar message. The sign or signs, containing  
14 letters not less than two inches in height, shall  
15 be placed at reasonable intervals along the  
16 boundary line of the land and at roads and trails  
17 entering the land in a manner and position as to  
18 be clearly noticeable from outside the boundary  
19 line.

20 For the purposes of this paragraph, "unimproved or  
21 unused lands" means any land upon which there is no  
22 improvement, construction of any structure, building, or



1       facility, or alteration of the land by grading, dredging,  
2       or mining that would cause a permanent change in the land  
3       on which it occurs and that would change the basic natural  
4       condition of the land. Land remains unimproved or unused  
5       land notwithstanding minor improvements, including the  
6       installation or maintenance of utility poles and signage;  
7       minor alterations undertaken for the preservation or  
8       prudent management of the unimproved land, including the  
9       installation or maintenance of fences, trails, or pathways;  
10       maintenance activities, including forest plantings and the  
11       removal of weeds, brush, rocks, boulders, or trees; or the  
12       removal or securing of rocks or boulders undertaken to  
13       reduce risk to downslope properties."

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

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

19       SECTION 5. This Act shall take effect on January 7, 2059.



**Report Title:**

Trespass; Unimproved or Unused Land

**Description:**

Makes entering or remaining unlawfully on unimproved or unused agricultural lands without permission an offense of criminal trespass in the second degree if the lands are fenced, enclosed, or secured, or a sign is displayed. Includes entering or remaining on agricultural lands that are fallow or have evidence of livestock at the time of entry in the offense of trespass in the second degree. Effective January 7, 2059. (HB227 HD2)

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

