
A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PROPERTY RIGHTS.

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

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

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

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

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

16 For the purposes of this paragraph, "reasonable
17 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



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



1 ~~(iii) At the time of entry, are fallow or have a~~
2 ~~visible presence of livestock or a crop.~~

3 ~~(A) Under cultivation,~~

4 ~~(B) In the process of being harvested; or~~

5 ~~(C) That has been harvested];~~

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

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

12 (ii) Have a sign or signs displayed on the unenclosed,
13 unimproved, or unused land sufficient to give
14 reasonable notice and reads as follows: "Private
15 Property - No Trespassing", "Government Property
16 - No Trespassing", or a substantially similar
17 message; provided that the sign or signs shall
18 contain letters not less than two inches in
19 height and shall be placed at reasonable
20 intervals along the boundary line of the land and
21 at roads and trails entering the land in a manner



1 and position as to be clearly noticeable from
2 outside the boundary line.

3 For the purposes of this paragraph, "unimproved
4 or unused lands" means any land upon which there is no
5 improvement; construction of any structure, building,
6 or facility; or alteration of the land by grading,
7 dredging, or mining that would cause a permanent
8 change in the land or that would change the basic
9 natural condition of the land. Land remains
10 "unimproved or unused land" under this paragraph
11 notwithstanding minor improvements, including the
12 installation or maintenance of utility poles, signage,
13 and irrigation facilities or systems; minor
14 alterations undertaken for the preservation or prudent
15 management of the unimproved or unused land, including
16 the installation or maintenance of fences, trails, or
17 pathways; maintenance activities, including forest
18 plantings and the removal of weeds, brush, rocks,
19 boulders, or trees; and the removal or securing of
20 rocks or boulders undertaken to reduce risk to
21 downslope properties; or



1 (e) The person enters or remains unlawfully in or upon the
2 premises of any public housing project or state low-
3 income housing project, as defined in section 356D-1,
4 356D-51, or 356D-91, after a reasonable warning or
5 request to leave by housing authorities or a police
6 officer, based upon an alleged violation of law or
7 administrative rule; provided that a warning or
8 request to leave shall not be necessary between 10:00
9 p.m. and 5:00 a.m. at any public housing project or
10 state low-income housing project that is closed to the
11 public during those hours and has signs, containing
12 letters not less than two inches in height, placed
13 along the boundary of the project property, at all
14 entrances to the property, in a manner and position to
15 be clearly noticeable from outside the boundary of the
16 project property and to give sufficient notice that
17 the public housing project or state low-income housing
18 project is closed to the public during those hours."

19 SECTION 2. Section 708-835.55, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "[+]§708-835.55[+] Theft; soil; agricultural product;
 2 **sentencing.** (1) Whenever a person is sentenced under sections
 3 708-830.5, 708-831, 708-832, or 708-833, for an offense
 4 involving theft of soil or an agricultural product or commodity,
 5 in addition to any penalty prescribed by those sections, the
 6 person shall be required to make payment to the property owner
 7 for:

8 (a) The value of the stolen soil or agricultural product
 9 or commodity, pursuant to section 706-646; and

10 (b) The cost of replacing the soil or replanting the
 11 agricultural product or commodity.

12 (2) For purposes of this section[7]:

13 [~~agricultural~~] "Agricultural product or commodity"

14 includes:

15 (a) Floricultural, horticultural, viticultural,
 16 aquacultural, forestry products or commodities; and

17 (b) Shrubbery, nuts, coffee, seeds, and other farm or
 18 plantation products or commodities,

19 whether for personal or commercial use.

20 "Soil" includes rock, gravel, sand, or any other solid or
 21 semi-solid growing medium."



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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

INTRODUCED BY:

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H.B. NO. 1743

Report Title:

Trespass; Agricultural Land; Theft; Soil; Gravel; Rock

Description:

Removes trespass requirement that agricultural lands have a fence or signs stating private property. Establishes that a person sentences for theft of soil reimburse the land owner for the cost of the soil.

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