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# A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS.

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

1           SECTION 1. The legislature finds that it is necessary to  
2 add a new criminal trespass section to protect against people  
3 remaining on improved state land when it is closed or otherwise  
4 restricted, and on or under state highways. In addition, the  
5 offense of criminal trespass in the second degree should be  
6 amended to include government agricultural lands that are not  
7 fenced, enclosed, or secured in a manner designed to exclude  
8 intruders, but have appropriate signage giving notice that the  
9 property is government property and that trespassing is  
10 prohibited.

11           SECTION 2. Chapter 708, Hawaii Revised Statutes, is  
12 amended by adding to part II a new section to be appropriately  
13 designated and to read as follows:

14           "§708-       Criminal trespass onto state lands. (1) A  
15 person commits the offense of criminal trespass onto state lands  
16 if:

17           (a) The person enters or remains unlawfully in or upon any  
18           improved state land when:



- 1           (i) The land is closed and its closure hours are  
2           posted on a sign or signs on the improved state  
3           land; or
- 4           (ii) The land is not open to the public and there are  
5           signs sufficient to give reasonable notice that  
6           reads: "Government Property - No Trespassing";  
7           provided that such signs shall contain letters  
8           not less than two inches in height and shall be  
9           placed at reasonable intervals along the boundary  
10           line of the land and at roads and trails entering  
11           the land in a manner and position as to be  
12           clearly noticeable from outside the boundary  
13           line; or
- 14           (b) The person enters or remains unlawfully in or upon any  
15           state land on or under any highway, and the state land  
16           has a sign or signs displayed upon the land sufficient  
17           to give reasonable notice and reads: "Government  
18           Property - No Trespassing"; provided that the signs  
19           shall contain letters not less than two inches in  
20           height and shall be placed at reasonable intervals  
21           along the boundary line of the land and at roads and



1 trails entering the land in a manner and position as  
2 to be clearly noticeable from outside the boundary  
3 line.

4 (2) For the purposes of this section, unless the context  
5 requires otherwise:

6 "Highway" has the same meaning as in section 286-2.

7 "Improved state land" means any state land upon which there  
8 is improvement, including any structure, building, or facility;  
9 or alteration of the land by grading, dredging, or mining that  
10 would cause a permanent change in the land or that would change  
11 the basic natural condition of the land, including but not  
12 limited to harbors under the care and control of the department  
13 of transportation under chapter 266, and small boat harbors  
14 under the care and control of the department of land and natural  
15 resources under chapter 200. Land is not "improved state land"  
16 if it only has minor improvements, including utility poles,  
17 signage, and irrigation facilities or systems; or minor  
18 alterations undertaken for the preservation or prudent  
19 management of the unimproved or unused land, including fences,  
20 trails, or pathways. Land is not "improved state land" solely  
21 due to state maintenance activities, including forest plantings



1 and the removal of weeds, brush, rocks, boulders, or trees; or  
2 removal or securing of rocks or boulders undertaken to reduce  
3 risk to downslope properties.

4 "State lands" means all land owned by the State through any  
5 of its departments or agencies.

6 (3) Criminal trespass onto state lands is a petty  
7 misdemeanor."

8 SECTION 3. Section 708-814, Hawaii Revised Statutes, is  
9 amended by amending subsection (1) to read as follows:

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

12 (a) The person knowingly enters or remains unlawfully in  
13 or upon premises that are enclosed in a manner  
14 designed to exclude intruders or are fenced;

15 (b) The person enters or remains unlawfully in or upon  
16 commercial premises after a reasonable warning or  
17 request to leave by the owner or lessee of the  
18 commercial premises, the owner's or lessee's  
19 authorized agent, or a police officer; provided that  
20 this paragraph shall not apply to any conduct or



1 activity subject to regulation by the National Labor  
2 Relations Act.

3 For the purposes of this paragraph, "reasonable  
4 warning or request" means a warning or request  
5 communicated in writing at any time within a one-year  
6 period inclusive of the date the incident occurred,  
7 which may contain but is not limited to the following  
8 information:

- 9 (i) A warning statement advising the person that the  
10 person's presence is no longer desired on the  
11 property for a period of one year from the date  
12 of the notice, that a violation of the warning  
13 will subject the person to arrest and prosecution  
14 for trespassing pursuant to section 708-  
15 814(1)(b), and that criminal trespass in the  
16 second degree is a petty misdemeanor;
- 17 (ii) The legal name, any aliases, and a photograph, if  
18 practicable, or a physical description, including  
19 but not limited to sex, racial extraction, age,  
20 height, weight, hair color, eye color, or any



- 1                   other distinguishing characteristics of the
- 2                   person warned;
- 3           (iii) The name of the person giving the warning along
- 4                   with the date and time the warning was given; and
- 5           (iv) The signature of the person giving the warning,
- 6                   the signature of a witness or police officer who
- 7                   was present when the warning was given and, if
- 8                   possible, the signature of the violator;
- 9           (c) The person enters or remains unlawfully on
- 10                   agricultural lands without the permission of the owner
- 11                   of the land, the owner's agent, or the person in
- 12                   lawful possession of the land, and the agricultural
- 13                   lands:
- 14                   (i) Are fenced, enclosed, or secured in a manner
- 15                   designed to exclude intruders;
- 16                   (ii) Have a sign or signs displayed on the unenclosed
- 17                   cultivated or uncultivated agricultural land
- 18                   sufficient to give notice and reading as follows:
- 19                   "Private Property" [-] or "Government Property-No
- 20                   Trespassing." The sign or signs, containing
- 21                   letters not less than two inches in height, shall



1           be placed along the boundary line of the land and  
2           at roads and trails entering the land in a manner  
3           and position as to be clearly noticeable from  
4           outside the boundary line; or  
5       (iii) At the time of entry, are fallow or have a  
6           visible presence of livestock or a crop:  
7           (A) Under cultivation;  
8           (B) In the process of being harvested; or  
9           (C) That has been harvested;  
10       (d) The person enters or remains unlawfully on unimproved  
11           or unused lands without the permission of the owner of  
12           the land, the owner's agent, or the person in lawful  
13           possession of the land, and the lands:  
14           (i) Are fenced, enclosed, or secured in a manner  
15           designed to exclude the general public; or  
16           (ii) Have a sign or signs displayed on the unenclosed,  
17           unimproved, or unused land sufficient to give  
18           reasonable notice and reads as follows: "Private  
19           Property - No Trespassing", "Government Property  
20           - No Trespassing", or a substantially similar  
21           message; provided that the sign or signs shall



1 contain letters not less than two inches in  
2 height and shall be placed at reasonable  
3 intervals along the boundary line of the land and  
4 at roads and trails entering the land in a manner  
5 and position as to be clearly noticeable from  
6 outside the boundary line.

7 For the purposes of this paragraph,  
8 "unimproved or unused lands" means any land upon  
9 which there is no improvement; construction of  
10 any structure, building, or facility; or  
11 alteration of the land by grading, dredging, or  
12 mining that would cause a permanent change in the  
13 land or that would change the basic natural  
14 condition of the land. Land remains "unimproved  
15 or unused land" under this paragraph  
16 notwithstanding minor improvements, including the  
17 installation or maintenance of utility poles,  
18 signage, and irrigation facilities or systems;  
19 minor alterations undertaken for the preservation  
20 or prudent management of the unimproved or unused  
21 land, including the installation or maintenance





1 of fences, trails, or pathways; maintenance  
2 activities, including forest plantings and the  
3 removal of weeds, brush, rocks, boulders, or  
4 trees; and the removal or securing of rocks or  
5 boulders undertaken to reduce risk to downslope  
6 properties; or

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



1 position to be clearly noticeable from outside the  
2 boundary of the project property and to give  
3 sufficient notice that the public housing project or  
4 state low-income housing project is closed to the  
5 public during those hours."

6 SECTION 4. The department of the attorney general shall  
7 submit a written report to the legislature regarding the extent  
8 to which this Act has been utilized, including any proposed  
9 legislation, no later than twenty days prior to the convening of  
10 the regular session of 2018.

11 SECTION 5. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on January 7, 2019;  
17 provided that this Act shall be repealed on January 1, 2021.

18



**Report Title:**

Criminal Trespass

**Description:**

Adds the offense of criminal trespass onto state lands to part II of chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders but has appropriate signage giving notice that the property is government property and that trespassing is prohibited. Takes effect on 1/7/2059. Repeals on 1/1/2021.  
(SD1)

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

