
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 establish a new criminal trespass offense to protect against
3 people remaining on improved state land when it is closed or
4 otherwise restricted, or on or under state highways.

5 The legislature further finds that the offense of criminal
6 trespass in the second degree should be amended to include
7 government agricultural lands that are not fenced, enclosed, or
8 secured in a manner designed to exclude intruders when there is
9 appropriate signage giving notice that the property is
10 government property and trespassing is prohibited.

11 This Act is not intended to abridge the constitutional
12 rights of persons who are homeless. These include their rights
13 under the Eighth Amendment of the United States Constitution and
14 their corresponding rights under article I, section 12, of the
15 Constitution of the State of Hawaii to be free from cruel and
16 unusual punishment.



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

4 "§708- Criminal trespass onto state lands. (1) Except
5 for lands under the jurisdiction of the office of Hawaiian
6 affairs, and except for improved state lands that are designated
7 as safe havens, or that are under executive order by the
8 governor and has a department of health component and adequate
9 space, not to include state hospitals, a person commits the
10 offense of criminal trespass onto state lands if:

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

13 (i) The land is closed to public use and its closure
14 hours are posted on a sign or signs on the
15 improved state land, and after a request to leave
16 is made by any law enforcement officer the person
17 remains in or upon the land; or

18 (ii) The land is not open to the public and there are
19 signs that are sufficient to give reasonable
20 notice that read: "Government Property - No
21 Trespassing"; provided that these signs shall



1 contain letters no less than two inches in height
2 and shall be placed at reasonable intervals along
3 the boundary line of the land and at roads and
4 trails entering the land in a manner and position
5 as to be clearly noticeable from outside the
6 boundary line; or

7 (b) The person enters or remains unlawfully in or upon any
8 state land on or under any highway, and the state land
9 has a sign or signs displayed upon the land that are
10 sufficient to give reasonable notice that read:
11 "Government Property - No Trespassing"; provided that
12 the signs shall contain letters no less than two
13 inches in height and shall be placed at reasonable
14 intervals along the boundary line of the land, and at
15 roads and trails entering the land in a manner and
16 position as to be clearly noticeable from outside the
17 boundary line.

18 (2) Criminal trespass onto state lands is a petty
19 misdemeanor.

20 (3) For the purposes of this section, unless the context
21 requires otherwise:



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

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



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

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

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

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

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

18 For the purposes of this paragraph, "reasonable
19 warning or request" means a warning or request
20 communicated in writing at any time within a one-year
21 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 708-~~
9 ~~814(1)(b),]~~ this subsection, and that criminal
10 trespass in the second degree is a petty
11 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;

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" [-] or "Government Property -
14 No Trespassing". The sign or signs, containing
15 letters [~~not~~] no less than two inches in height,
16 shall be placed at reasonable intervals along the
17 boundary line of the land and at roads and trails
18 entering the land in a manner and position as to
19 be clearly noticeable from outside the boundary
20 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~~] no less than two inches in height,
13 placed along the boundary of the project property, at
14 all entrances to the property, in a manner and
15 position to be clearly noticeable from outside the
16 boundary of the project property and to give
17 sufficient notice that the public housing project or
18 state low-income housing project is closed to the
19 public during those hours."

20 SECTION 4. The department of the attorney general shall
21 submit a written report to the legislature regarding the extent



1 to which this Act has been utilized, including any proposed
2 legislation, no later than twenty days prior to the convening of
3 the regular sessions of 2018, 2019, and 2020.

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

7 SECTION 6. This Act does not affect native Hawaiian rights
8 or active customary practices.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Criminal Trespass; State Lands; State Highways

Description:

Establishes the offense of criminal trespass onto state lands to the penal code. Amends the offenses of criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. (SB895 HD1)

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

