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# A BILL FOR AN ACT

RELATING TO CIVIL TRESPASS.

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

1 SECTION 1. The purpose of this Act is to amend the offense  
2 of simple trespass to establish the civil infraction of trespass  
3 onto real property and monetary penalties therefor.

4 SECTION 2. Section 708-815, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "~~§708-815~~ ~~[Simple]~~ Civil trespass[-] onto real property.

7 (1) A person commits the offense of [~~simple~~] civil trespass  
8 onto real property if the person intentionally or knowingly  
9 enters or remains unlawfully in or upon premises[-] without  
10 prior authorization or invitation by the owner; provided that  
11 conduct shall not constitute trespass if it occurs in the  
12 airspace above the premises and the conduct:

13 (a) Does not interfere with the owner's actual use of the  
14 premises; or

15 (b) Is directly related to the construction of affordable  
16 housing, as that term is defined in section 201H-57.



1 A claim of mistaken entry upon the premises or a claim of  
2 ignorance as to the location of the boundary line of the  
3 premises shall not constitute a defense to civil trespass.

4 No cause of action may be brought by a property owner based  
5 upon a claim of trespass into airspace when the conduct falls  
6 within one of the exceptions identified in subsection (a).

7 (2) Simple trespass is a violation.

8 (3) A person found to be in violation of this section  
9 shall be issued a citation by a state or county law enforcement  
10 officer, as applicable.

11 Except when treated as a criminal offense or violation  
12 under a different law, or except as otherwise provided by law,  
13 the conduct described in this section shall be treated as a  
14 civil infraction and subject to the following fines:

15 (a) For a first violation, a fine of no less than  
16 \$ \_\_\_\_\_ but no more than \$ \_\_\_\_\_ ;

17 (b) For a second violation involving the same premises, a  
18 fine of no less than \$ \_\_\_\_\_ but no more than  
19 \$ \_\_\_\_\_ ; and



1        (c) For a third or subsequent violation involving the  
2                    same premises, a fine of no less than \$                    but  
3                    no more than \$                    .

4                    Violations of this chapter shall be heard in the district  
5 courts and adjudicated using a system modeled after chapter  
6 291D; provided that no later than January 1, 2024, the judiciary  
7 shall have established and implemented the system to adjudicate  
8 citations for civil trespass issued under this chapter.

9                    (4) As used in this section, unless the context otherwise  
10 requires:

11                    "Enter or remain unlawfully" means to be in or upon  
12 premises when the person is not licensed, invited, or otherwise  
13 privileged to be upon the premises. A person who, regardless of  
14 the person's intent, enters or remains in or upon premises that  
15 are at the time open to the public does so with license and  
16 privilege unless the person defies a lawful order not to enter  
17 or remain, personally communicated to the person by the owner of  
18 the premises or some other authorized person. A license or  
19 privilege to enter or remain in a building that is only partly  
20 open to the public is not a license or privilege to enter or  
21 remain in that part of the building that is not open to the



1 public. A person who enters or remains upon unimproved and  
2 apparently unused land that is neither fenced nor otherwise  
3 enclosed in a manner designed to exclude intruders does so with  
4 license and privilege, unless notice against trespass is  
5 personally communicated to the person by the owner of the land  
6 or some other authorized person, or unless notice is given by  
7 posting in a conspicuous manner.

8 "Owner" means the possessor of a fee interest, a tenant,  
9 lessee, occupant, or person, group, club, partnership, family,  
10 organization, entity, or corporation that is in control,  
11 possession, or use of the land, and their members, agents,  
12 partners, representatives, shareholders, and employees.

13 "Premises" includes any building or portion thereof, or any  
14 real property."

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

18 SECTION 4. This Act shall take effect on June 30, 3000.



**Report Title:**

Real Property; Trespass; Civil Infraction; Penalties

**Description:**

Amends the offense of simple trespass to establish the civil infraction of trespass onto real property and monetary penalties therefor. Provides that a violator shall be issued a citation. Requires violations to be adjudicated in the district courts using a system similar to that used for adjudicating traffic infractions and emergency period infractions. Requires the judiciary to have established and implemented no later than 1/1/2024 the system to adjudicate citations for civil trespass. Effective 6/30/3000. (HD1)

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

