
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.

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 that trespassing is 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:



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



1 height and shall be placed at reasonable intervals
2 along the boundary line of the land and at roads and
3 trails entering the land in a manner and position as
4 to be clearly noticeable from outside the boundary
5 line.

6 (2) For the purposes of this section, unless the context
7 requires otherwise:

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

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

1 trails, or pathways. Land is not "improved state land" solely
2 due to state maintenance activities, including forest plantings
3 and the removal of weeds, brush, rocks, boulders, or trees; or
4 removal or securing of rocks or boulders undertaken to reduce
5 risk to downslope properties.

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

8 (3) Criminal trespass onto state lands is a petty
9 misdemeanor."

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

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

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

17 (b) The person enters or remains unlawfully in or upon
18 commercial premises after a reasonable warning or
19 request to leave by the owner or lessee of the
20 commercial premises, the owner's or lessee's
21 authorized agent, or a police officer; provided that



1 this paragraph shall not apply to any conduct or
2 activity subject to regulation by the National Labor
3 Relations Act.

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

10 (i) A warning statement advising the person that the
11 person's presence is no longer desired on the
12 property for a period of one year from the date
13 of the notice, that a violation of the warning
14 will subject the person to arrest and prosecution
15 for trespassing pursuant to section 708-
16 814(1)(b), and that criminal trespass in the
17 second degree is a petty misdemeanor;

18 (ii) The legal name, any aliases, and a photograph, if
19 practicable, or a physical description, including
20 but not limited to sex, racial extraction, age,
21 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 -
20 No 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 July 1, 2016.



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. (SB2816 HD1)

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

