

JAN 17 2014

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# A BILL FOR AN ACT

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RELATING TO CRIMINAL TRESPASS.

**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]~~ law enforcement  
13      officer; provided that this paragraph shall not apply  
14      to any conduct or activity subject to regulation by  
15      the National Labor Relations Act.

16               For the purposes of this paragraph, "reasonable  
17      warning or request" means a warning or request  
18      communicated in writing at any time within a one-year



1 period inclusive of the date the incident occurred,  
2 which may contain but is not limited to the following  
3 information:

4 (i) A warning statement advising the person that the  
5 person's presence is no longer desired on the  
6 property for a period of one year from the date  
7 of the notice, that a violation of the warning  
8 will subject the person to arrest and prosecution  
9 for trespassing pursuant to section  
10 708-814(1)(b), and that criminal trespass in the  
11 second degree is a petty 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]~~ law  
22 enforcement officer who was present when the



1 warning was given and, if possible, the signature  
2 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". The sign or signs,  
14 containing letters not less than two inches in  
15 height, shall be placed along the boundary line  
16 of the land and at roads and trails entering the  
17 land in a manner and position as to be clearly  
18 noticeable from outside the boundary line; or

19 (iii) At the time of entry, are fallow or have a  
20 visible presence of livestock or a crop:

21 (A) Under cultivation;

22 (B) In the process of being harvested; or



1 (C) That has been harvested;

2 (d) The person enters or remains unlawfully on unimproved  
3 or unused lands without the permission of the owner of  
4 the land, the owner's agent, or the person in lawful  
5 possession of the land, and the lands:

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

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

20 For the purposes of this paragraph, "unimproved  
21 or unused lands" means any land upon which there is no  
22 improvement; construction of any structure, building,



1 or facility; or alteration of the land by grading,  
2 dredging, or mining that would cause a permanent  
3 change in the land or that would change the basic  
4 natural condition of the land. Land remains  
5 "unimproved or unused land" under this paragraph  
6 notwithstanding minor improvements, including the  
7 installation or maintenance of utility poles, signage,  
8 and irrigation facilities or systems; minor  
9 alterations undertaken for the preservation or prudent  
10 management of the unimproved or unused land, including  
11 the installation or maintenance of fences, trails, or  
12 pathways; maintenance activities, including forest  
13 plantings and the removal of weeds, brush, rocks,  
14 boulders, or trees; and the removal or securing of  
15 rocks or boulders undertaken to reduce risk to  
16 downslope properties; or

17 (e) The person enters or remains unlawfully in or upon the  
18 premises of any public housing project or state low-  
19 income housing project, as defined in section 356D-1,  
20 356D-51, or 356D-91, after a reasonable warning or  
21 request to leave by housing authorities or a ~~[police]~~  
22 law enforcement officer, based upon an alleged



1 violation of law or administrative rule; provided that  
2 a warning or request to leave shall not be necessary  
3 between 10:00 p.m. and 5:00 a.m. at any public housing  
4 project or state low-income housing project that is  
5 closed to the public during those hours and has signs,  
6 containing letters not less than two inches in height,  
7 placed along the boundary of the project property, at  
8 all entrances to the property, in a manner and  
9 position to be clearly noticeable from outside the  
10 boundary of the project property and to give  
11 sufficient notice that the public housing project or  
12 state low-income housing project is closed to the  
13 public during those hours."

14 SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.  
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INTRODUCED BY:

*Shirley Chun Oakland*  
*Mike Gabbard*  
*Will Zygo*  
*Mark R.*



# S.B. NO. 2529

**Report Title:**

Criminal Trespass in the Second Degree; Law Enforcement Officers

**Description:**

Replaces the term police officer with law enforcement officer in section 708-814, Hawaii Revised Statutes, relating to criminal trespass in the second degree.

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

