
A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS.

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

1 SECTION 1. Section 708-800, Hawaii Revised Statutes, is
2 amended by amending the definition of "enter or remain
3 unlawfully" to read as follows:

4 ""Enter or remain unlawfully" means to enter or remain in
5 or upon premises when the person is not licensed, invited, or
6 otherwise privileged to do so. A person who, regardless of the
7 person's intent, enters or remains in or upon premises [~~which~~
8 that are at the time open to the public does so with license and
9 privilege unless the person defies a lawful order not to enter
10 or remain, personally communicated to the person by the owner of
11 the premises or some other authorized person[-], including a
12 reasonable warning or request to leave by the owner or lessee of
13 commercial premises, the owner's or lessee's authorized agent,
14 or a police officer made in accordance with section
15 708-814(1)(b). A license or privilege to enter or remain in a
16 building [~~which~~] that is only partly open to the public is not a



1 license or privilege to enter or remain in that part of the
2 building [~~which~~] that is not open to the public."

3 SECTION 2. 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], as
20 communicated in writing at any time within a one-year
21 period inclusive of the date the incident occurred[~~7~~~~



1 which]. This paragraph shall not apply to any conduct
2 or activity subject to regulation by the National
3 Labor Relations Act. The written communication shall
4 be considered a lawful order, and may contain but is
5 not limited to the following information:

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

15 (ii) The legal name, any aliases, and a photograph, if
16 practicable, or a physical description, including
17 but not limited to sex, racial extraction, age,
18 height, weight, hair color, eye color, or any
19 other distinguishing characteristics of the
20 person warned;



- 1 (iii) The name of the person giving the warning along
- 2 with the date and time the warning was given; and
- 3 (iv) The signature of the person giving the warning,
- 4 the signature of a witness or police officer who
- 5 was present when the warning was given and, if
- 6 possible, the signature of the violator;
- 7 (c) The person enters or remains unlawfully on
- 8 agricultural lands without the permission of the owner
- 9 of the land, the owner's agent, or the person in
- 10 lawful possession of the land, and the agricultural
- 11 lands:
- 12 (i) Are fenced, enclosed, or secured in a manner
- 13 designed to exclude intruders;
- 14 (ii) Have a sign or signs displayed on the unenclosed
- 15 cultivated or uncultivated agricultural land
- 16 sufficient to give notice and reading as follows:
- 17 "Private Property". The sign or signs,
- 18 containing letters not less than two inches in
- 19 height, shall be placed along the boundary line
- 20 of the land and at roads and trails entering the



- 1 land in a manner and position as to be clearly
2 noticeable from outside the boundary line; or
- 3 (iii) At the time of entry, are fallow or have a
4 visible presence of livestock or a crop:
- 5 (A) Under cultivation;
- 6 (B) In the process of being harvested; or
- 7 (C) That has been harvested;
- 8 (d) The person enters or remains unlawfully on unimproved
9 or unused lands without the permission of the owner of
10 the land, the owner's agent, or the person in lawful
11 possession of the land, and the lands:
- 12 (i) Are fenced, enclosed, or secured in a manner
13 designed to exclude the general public; or
- 14 (ii) Have a sign or signs displayed on the unenclosed,
15 unimproved, or unused land sufficient to give
16 reasonable notice and reads as follows: "Private
17 Property - No Trespassing", "Government Property
18 - No Trespassing", or a substantially similar
19 message; provided that the sign or signs shall
20 contain letters not less than two inches in
21 height and shall be placed at reasonable



1 intervals 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.

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



1 rocks or boulders undertaken to reduce risk to
2 downslope properties; or
3 (e) The person enters or remains unlawfully in or upon the
4 premises of any public housing project or state low-
5 income housing project, as defined in section 356D-1,
6 356D-51, or 356D-91, after a reasonable warning or
7 request to leave by housing authorities or a police
8 officer, based upon an alleged violation of law or
9 administrative rule; provided that a warning or
10 request to leave shall not be necessary between 10:00
11 p.m. and 5:00 a.m. at any public housing project or
12 state low-income housing project that is closed to the
13 public during those hours and has signs, containing
14 letters not less than two inches in height, placed
15 along the boundary of the project property, at all
16 entrances to the property, in a manner and position to
17 be clearly noticeable from outside the boundary of the
18 project property and to give sufficient notice that
19 the public housing project or state low-income housing
20 project is closed to the public during those hours."



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

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on January 7, 2059.

7



Report Title:

Honolulu Prosecuting Attorney Package; Trespass; Definitions;
Enter or Remain Unlawfully

Description:

Amends the conditions under which the definition of "enter or remain unlawfully" shall apply with reference to criminal trespass in the second degree. Amends the offense of criminal trespass in the second degree to repeal the definition of "reasonable warning or request" and clarify that a reasonable warning or request by an owner or lessee of the commercial premises, the owner's or lessee's authorized agency, or a police officer may be communicated in writing at any time within a one-year period inclusive of the date the incident occurred with certain exceptions. Takes effect on 1/7/2059. (SD1)

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