
A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS ONTO STATE LANDS.

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

1 SECTION 1. Section 708-814, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§708-814 Criminal trespass in the second degree.** (1) A
4 person commits the offense of criminal trespass in the second
5 degree if:

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

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



1 For the purposes of this paragraph, "reasonable
2 warning or request" means a warning or request
3 communicated in writing at any time within a one-year
4 period inclusive of the date the incident occurred,
5 which may be evidenced by a copy of the previously
6 issued written warning or request, whether or not the
7 copy is posted at the premises or retained by the
8 county police department, and which may contain but is
9 not limited to the following 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 this subsection, and
16 that criminal trespass in the second degree is a
17 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 - No
20 Trespassing". The sign or signs, containing
21 letters no less than two inches in height, shall



1 be placed at reasonable intervals no less than
2 three signs to a mile along the boundary line of
3 the land and at roads and trails entering the
4 land in a manner and position as to be clearly
5 noticeable from outside the boundary line; or
6 (iii) At the time of entry, are fallow or have a
7 visible presence of livestock or a crop:
8 (A) Under cultivation;
9 (B) In the process of being harvested; or
10 (C) That has been harvested;
11 (d) The person enters or remains unlawfully on unimproved
12 or unused lands without the permission of the owner of
13 the land, the owner's agent, or the person in lawful
14 possession of the land, and the lands:
15 (i) Are fenced, enclosed, or secured in a manner
16 designed to exclude the general public; or
17 (ii) Have a sign or signs displayed on the unenclosed,
18 unimproved, or unused land sufficient to give
19 reasonable notice and reads as follows: "Private
20 Property - No Trespassing", "Government Property
21 - No Trespassing", or a substantially similar



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

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



1 the installation or maintenance of fences, trails, or
2 pathways; maintenance activities, including forest
3 plantings and the removal of weeds, brush, rocks,
4 boulders, or trees; and the removal or securing of
5 rocks or boulders undertaken to reduce risk to
6 downslope properties; or
7 (e) The person enters or remains unlawfully in or upon any
8 area of a housing project that is closed to the public
9 pursuant to section 356D-6.7 and meets the signage
10 requirements of section 356D-6.7, or the person enters
11 or remains unlawfully in or upon any property that is
12 subject to section 356D-6.7 and meets the signage
13 requirements of section 356D-6.7 after a reasonable
14 warning or request to leave by the housing authority
15 or law enforcement officer, as defined in
16 section 710-1000, based upon an alleged violation of
17 law or administrative rule, notwithstanding any
18 invitation or authorization provided to the person by
19 a tenant of that housing project or a member of that
20 tenant's household.

21 As used in this paragraph:

1 "Housing authority" means a property manager,
2 resident manager, tenant monitors, security guards, or
3 others officially designated by the Hawaii public
4 housing authority, for the housing project.

5 "Housing project" means a public housing
6 project[7] or elder or elderly housing as defined in
7 section 356D-1, or state low-income housing project as
8 defined in section 356D-51.

9 "Reasonable warning or request" means a warning
10 or request communicated in writing at any time within
11 a one-year period inclusive of the date the incident
12 occurred, which may contain but is not limited to the
13 following information:

- 14 (i) A warning statement advising the person that
15 for a period of one year from the date of
16 the notice, the person's presence is no
17 longer desired in or on the areas of the
18 subject housing project that are closed to
19 the public, that a violation of the warning
20 will subject the person to arrest and
21 prosecution for trespassing pursuant to this



1 subsection, and that criminal trespass in
2 the second degree is a petty misdemeanor;

3 (ii) The legal name, any aliases, and a
4 photograph, if practicable, or a physical
5 description, including but not limited to
6 sex, racial extraction, age, height, weight,
7 hair color, eye color, or any other
8 distinguishing characteristics of the person
9 warned;

10 (iii) The name of the person giving the warning
11 along with the date and time the warning was
12 given;

13 (iv) The signature of the person giving the
14 warning and, if possible, the signature of
15 the violator; and

16 (v) The name and signature of a witness or law
17 enforcement officer, as defined in
18 section 710-1000, who was present when the
19 warning was given.

20 (2) Subsection (1) shall not apply to a process server who
21 enters or remains in or upon the land or premises of another,



1 unless the land or premises are secured with a fence and locked
2 gate, for the purpose of making a good faith attempt to perform
3 the process server's legal duties and to serve process upon any
4 of the following:

5 (a) An owner or occupant of the land or premises;

6 (b) An agent of the owner or occupant of the land or
7 premises; or

8 (c) A lessee of the land or premises.

9 For the purposes of this subsection, "process server" means
10 any person authorized under the Hawaii rules of civil procedure,
11 district court rules of civil procedure, Hawaii family court
12 rules, or section 353C-10 to serve process.

13 (3) Criminal trespass in the second degree is a petty
14 misdemeanor.

15 (4) The facts and circumstances to be considered in
16 establishing the offense of criminal trespass in the second
17 degree may include but not be limited to photographs, video
18 recordings, or other recordings that show the commission of the
19 offense and can be authenticated by one or more witnesses."

20 SECTION 2. Section 708-814.7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§708-814.7[+] **Criminal trespass onto state lands.** (1)
2 Except for lands owned by the office of Hawaiian affairs, and
3 except for improved state lands that are designated safe havens
4 by state departments or agencies, or that are under executive
5 order by the governor to be used as a safe haven and have a
6 department of health component and adequate space, not to
7 include state hospitals, a person commits the offense of
8 criminal trespass onto state lands if:

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

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

16 (ii) The land is not open to the public and there are
17 signs that are sufficient to give reasonable
18 notice that read: "Government Property - No
19 Trespassing"; provided that these signs shall
20 contain letters no less than two inches in height
21 and shall be placed at reasonable intervals no



1 less than three signs to a mile along the
2 boundary line of the land and at all roads and
3 trails entering the land in a manner and position
4 as to be clearly noticeable from outside the
5 boundary; or

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

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

19 (3) The facts and circumstances to be considered in
20 establishing the offense of criminal trespass onto state lands
21 may include but not be limited to photographs, video recordings,



1 or other recordings that show the commission of the offense and
2 can be authenticated by one or more witnesses.

3 [~~3~~] (4) For the purposes of this section, unless the
4 context requires otherwise:

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

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



1 brush, rocks, boulders, or trees; or removal or securing of
2 rocks or boulders undertaken to reduce risk to downslope
3 properties.

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

6 [~~4~~] (5) No conviction under this section shall be used
7 to establish a felony conviction under section 708-803."

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

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

13 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Criminal Trespass; Evidence; Photographs; Video Recordings

Description:

Provides that the facts and circumstances to be considered in establishing the offenses of criminal trespass in the second degree and criminal trespass onto state lands may include but not be limited to authenticated photographs, video recordings, or other recordings that show the commission of the offense.
(HD1)

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