

1 the premises or some other authorized person. A license or
2 privilege to enter or remain in a building that is only partly
3 open to the public is not a license or privilege to enter or
4 remain in that part of the building that is not open to the
5 public. A person who enters or remains upon unimproved and
6 apparently unused land that is neither fenced nor otherwise
7 enclosed in a manner designed to exclude intruders does so with
8 license and privilege, unless notice against trespass is
9 personally communicated to the person by the owner of the land
10 or some other authorized person, or unless notice is given by
11 posting in a conspicuous manner.

12 "Intentionally" has the same meaning as in
13 section 702-206(1).

14 "Knowingly" has the same meaning as in section 702-206(2).

15 "Owner" means the possessor of a fee interest, a tenant,
16 lessee, occupant, or person, group, club, partnership, family,
17 organization, entity, or corporation that is in control,
18 possession, or use of the land, and their members, agents,
19 partners, representatives, shareholders, and employees.

20 "Premises" includes any building or portion thereof, or any
21 real property.



1 § -2 **Civil trespass; fines.** (a) It shall be unlawful
2 for any person to intentionally or knowingly enter or remain
3 unlawfully in or upon premises without prior authorization or
4 invitation by the owner; except that conduct shall not
5 constitute trespass if it occurs in the airspace above the
6 premises and:

7 (1) The conduct does not interfere with the owner's actual
8 use of the premises; or

9 (2) The conduct is directly related to the construction of
10 affordable housing, as that term is defined in
11 section 201H-57.

12 (b) A claim of mistaken entry upon the premises or a claim
13 of ignorance as to the location of the boundary line of the
14 premises shall not constitute a defense to civil trespass.

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

18 § -3 **Penalties.** (a) A person found to be in violation
19 of section -2 shall be issued a citation by a state or county
20 law enforcement officer, as applicable.



1 (b) Except when treated as a criminal offense or violation
2 under a different section of the Hawaii Revised Statutes, or
3 except as provided elsewhere in the Hawaii Revised Statutes, the
4 conduct described in section -2 shall be treated as a civil
5 infraction and subject to the following fines:

6 (1) For a first violation, a fine of at least \$ and
7 not exceeding \$;

8 (2) For a second violation involving the same premises, a
9 fine of at least \$ and not exceeding \$;
10 and

11 (3) For a third or subsequent violation involving the
12 same premises, a fine of at least \$ and not
13 exceeding \$.

14 (c) Violations of this chapter shall be heard in the
15 district courts and adjudicated using a system modeled after
16 chapter 291D; provided that no later than January 1, 2024, the
17 judiciary shall have established and implemented the system to
18 adjudicate citations for civil trespass issued under this
19 chapter."



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. This Act shall take effect upon its approval.

5

INTRODUCED BY: 

JAN 25 2023



H.B. NO. 1355

Report Title:

Real Property; Trespass; Civil Infraction; Penalties

Description:

Establishes 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.

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