

A Bill for an Act Relating to Criminal Trespass.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that persons who enter and unlawfully reside in tents or other temporary shelters in public parks or campgrounds, commonly known as squatters, continue their unlawful acts despite legislative and other efforts to address this problem. Act 50, Session Laws of Hawaii 2004, amended section 708-814, Hawaii Revised Statutes, regarding criminal trespass in the second degree, to include trespass on public property, in addition to commercial premises, to permit prosecution of these acts as petty misdemeanors and imposition of a maximum jail sentence of thirty days.

However, the legislature finds that the amendments made by Act 50 have been broadly used in circumstances not related to squatting. Further legislation is needed to repeal these amendments and establish a new offense more specifically tailored to prosecution of trespass offenses in public parks and recreation areas.

The purpose of this Act is to amend the trespass law to focus on squatters, without exposing others to the risk of prosecution for innocent, unrelated conduct.

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§708- Criminal trespass onto public parks and recreational grounds. (1) A person commits the offense of criminal trespass onto public parks and recreational grounds if the person remains unlawfully in or upon a public park or recreational ground after a request to leave is made by any law enforcement officer, when the request is based upon violation by the person of any term of use specified on a sign or notice posted on the property, or based on violation of any term of use contained in, or the expiration of, any permit relating to the person’s presence on the property.

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

“Law enforcement officer” has the same meaning as in section 710-1000.

“Public park or recreational ground” means any park, park roadway, playground, athletic field, beach, shore, beach or shore right-of-way, tennis court, golf course, swimming pool, or other recreational area or facility under control, maintenance, and management of the State or any of the counties.

(3) Criminal trespass onto public parks and recreational grounds is a petty misdemeanor.”

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

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

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

(b) The person enters or remains unlawfully in or upon commercial premises [or public property] after a reasonable warning or request to leave by the owner or lessee of the commercial premises [or public property], the owner’s or lessee’s authorized agent, or a police officer; provided that this paragraph shall not apply to any conduct or activity subject to

regulation by the National Labor Relations Act. For the purposes of this paragraph, “reasonable warning or request” means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:

- (i) A warning statement advising the person that the person’s presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to section 708-814(1)(b), and that criminal trespass in the second degree is a petty misdemeanor;
- (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;
- (iii) The name of the person giving the warning along with the date and time the warning was given; and
- (iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator.’’

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

SECTION 6. This Act shall take effect upon its approval.

(Approved July 8, 2005.)