

ACT 145

H.B. NO. 87

A Bill for an Act Relating to Public Housing.

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

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

“§708-814 Criminal trespass in the second degree. (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;
- (b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, 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, ra-

- cial 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;
- (c) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude intruders;
 - (ii) Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or
 - (iii) At the time of entry, are fallow or have a visible presence of livestock or a crop:
 - (A) Under cultivation;
 - (B) In the process of being harvested; or
 - (C) That has been harvested; [ø]
- (d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or
 - (ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property – No Trespassing", "Government Property – No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters not less than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

For the purposes of this paragraph, "unimproved or unused lands" means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains "unimproved or unused land" under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties[-]; or

(e) The person enters or remains unlawfully in or upon the premises of any public housing project or state low-income housing project, as defined in section 356D-1, 356D-51, or 356D-91, after a reasonable warning or request to leave by housing authorities or a police officer, based upon an alleged violation of law or administrative rule; provided that a warning or request to leave shall not be necessary between 10:00 p.m. and 5:00 a.m. at any public housing project or state low-income housing project that is closed to the public during those hours and has signs, containing letters not less than two inches in height, placed along the boundary of the project property, at all entrances to the property, in a manner and position to be clearly noticeable from outside the boundary of the project property and to give sufficient notice that the public housing project or state low-income housing project is closed to the public during those hours.

(2) As used in this section, "housing authorities" means resident managers or managers, tenant monitors, security guards, or others officially designated by the Hawaii public housing authority.

~~[(2)]~~ (3) Criminal trespass in the second degree is a petty misdemeanor."

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2014.

(Approved June 21, 2013.)