
A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS IN THE SECOND DEGREE.

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

1 SECTION 1. The legislature finds that public housing
2 properties administered by the Hawaii public housing authority
3 are considered private residential properties for purposes of
4 criminal law and face similar problems with trespassers. Many
5 times the trespassers loiter, vandalize, and abuse alcohol on
6 public housing properties.

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

9 "**§708-814 Criminal trespass in the second degree.** (1) A
10 person commits the offenses of criminal trespass in the second
11 degree if:

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

15 (b) The person enters or remains unlawfully in or upon
16 commercial premises after a reasonable warning or
17 request to leave by the owner or lessee of the
18 commercial premises, the owner's or lessee's



1 authorized agent, or a police officer; provided that
2 this paragraph shall not apply to any conduct or
3 activity subject to regulation by the National Labor
4 Relations Act [-];

5 ~~[For purposes of this paragraph, "reasonable~~
6 ~~warning or request" means a warning or request~~
7 ~~communicated in writing at any time within a one year~~
8 ~~period inclusive of the date the incident occurred,~~
9 ~~which may contain but is not limited to the following~~
10 ~~information:~~

11 ~~(i) A warning statement advising the person that the~~
12 ~~person's presence is no longer desired on the~~
13 ~~property for a period of one year from the date~~
14 ~~of the notice, that a violation of the warning~~
15 ~~will subject the person to arrest and prosecution~~
16 ~~for trespassing pursuant to section 708-~~
17 ~~814(1)(b), and that criminal trespass in the~~
18 ~~second degree is a petty misdemeanor,~~

19 ~~(ii) The legal name, any aliases, and a photograph, if~~
20 ~~practicable, or a physical description, including~~
21 ~~but not limited to sex, racial extraction, age,~~
22 ~~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; or]~~

9 (c) The person enters or remains on agricultural lands
10 without the permission of the owner of the land, the
11 owner's agent, or the person in lawful possession of
12 the land, and the agricultural lands:

13 (i) Are fenced, enclosed, or secured in a manner
14 designed to exclude intruders;

15 (ii) Have a sign or signs displayed on the unenclosed
16 cultivated or uncultivated agricultural land
17 sufficient to give notice and reading as follows:
18 "Private Property". The sign or signs,
19 containing letters not less than two inches in
20 height, shall be placed along the boundary line
21 of the land at roads and trails entering the land



1 in a manner and position as to be clearly
2 noticeable from outside the boundary line; or
3 (iii) At the time of entry, have a visible presence of
4 a crop:

5 (A) Under cultivation;

6 (B) In the process of being harvested; or

7 (C) That has been harvested[-]; or

8 (d) The person enters or remains unlawfully in or upon the
9 premises of any public housing project, after
10 reasonable warning or request to leave by housing
11 authorities or a police officer based upon a violation
12 of public housing project rules, and the person is not
13 an invited guest of an authorized resident of the
14 public housing project. For purposes of this section,
15 "public housing project" means a housing project
16 directly controlled, owned, developed, or managed by
17 the Hawaii public housing authority or the Hawaii
18 housing finance and development corporation pursuant
19 to parts II, III, and IV of chapter 356D.

20 (2) For purposes of this section, "reasonable warning or
21 request" means a warning or request communicated in writing at



1 any time within a one-year period inclusive of the date the
2 incident occurred, which may contain the following information:

3 (a) A warning statement advising the person that the
4 person's presence is no longer desired on the property
5 for a period of one year from the date of the notice,
6 that a violation of the warning will subject the
7 person to arrest and prosecution for trespassing
8 pursuant to section 708-814(1)(b) or 708-814 (1)(d),
9 and that criminal trespass in the second degree is a
10 petty misdemeanor;

11 (b) The legal name, any aliases, and a photograph, if
12 practicable, or a physical description, including sex,
13 racial extraction, age, height, weight, hair color,
14 eye color, or any other distinguishing characteristics
15 of the person warned;

16 (c) The name of the person giving the warning along with
17 the date and time the warning was given; and

18 (d) The signature of the person giving the warning, the
19 signature of a witness or police officer who was
20 present when the warning was given, and if possible,
21 the signature of the violator.



1 ~~[(2)]~~ (3) Criminal trespass in the second degree is a
2 petty misdemeanor."

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

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

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



Report Title:

Criminal Trespass; Second Degree

Description:

Makes criminal trespass in the second degree applicable to public housing projects administered by the Hawaii public housing authority. (SD1)

