

JAN 22 2007

A BILL FOR AN ACT

RELATING TO CRIMINAL TRESPASS.

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

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

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

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

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

16 For the purposes of this paragraph, "reasonable
17 warning or request" means a warning or request
18 communicated in writing at any time within a one-year



1 period inclusive of the date the incident occurred,
2 which may contain but is not limited to the following
3 information:

4 (i) A warning statement advising the person that the
5 person's presence is no longer desired on the
6 property for a period of one year from the date
7 of the notice, that a violation of the warning
8 will subject the person to arrest and prosecution
9 for trespassing pursuant to section 708-

10 814(1)(b), and that criminal trespass in the
11 second degree is a petty misdemeanor;

12 (ii) The legal name, any aliases, and a photograph, if
13 practicable, or a physical description, including
14 but not limited to sex, racial extraction, age,
15 height, weight, hair color, eye color, or any
16 other distinguishing characteristics of the
17 person warned;

18 (iii) The name of the person giving the warning along
19 with the date and time the warning was given; and

20 (iv) The signature of the person giving the warning,
21 the signature of a witness or police officer who



1 was present when the warning was given and, if
2 possible, the signature of the violator; [~~or~~]

3 (c) The person enters or remains on agricultural lands
4 without the permission of the owner of the land, the
5 owner's agent, or the person in lawful possession of
6 the land, and the agricultural lands:

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

9 (ii) Have a sign or signs displayed on the unenclosed
10 cultivated or uncultivated agricultural land
11 sufficient to give notice and reading as follows:

12 "Private Property." The sign or signs,
13 containing letters not less than two inches in
14 height, shall be placed along the boundary line
15 of the land and at roads and trails entering the
16 land in a manner and position as to be clearly
17 noticeable from outside the boundary line; or

18 (iii) At the time of entry, have a visible presence of
19 a crop:

20 (A) Under cultivation;

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

22 (C) That has been harvested[~~+~~];



1 (d) The person knowingly enters or remains in or upon any
2 public property other than a public park or
3 recreational ground without permission of the lawful
4 custodian of the public property or the lawful
5 custodian's authorized representative, at a time when
6 the public property is not open to the public; or

7 (e) The person enters or remains unlawfully in or upon any
8 public property other than a public park or
9 recreational ground after a request to leave by the
10 lawful custodian of the public property or the lawful
11 custodian's authorized representative, who has
12 determined that the person:

13 (i) Does not have any lawful business to conduct on
14 the public property;

15 (ii) Is interfering or obstructing with the use or
16 activities to which the public property is
17 dedicated;

18 (iii) Is violating any rule relating to use or
19 occupancy of the public property where the rule
20 is specified on a sign or notice posted on the
21 public property or where the person has been
22 advised of the rule by the lawful custodian of



1 the public property, the lawful custodian's
2 authorized representative, or any law enforcement
3 officer.

4 For the purposes of this paragraph "law
5 enforcement officer" has the same meaning as in
6 section 710-1000;

7 (iv) Is violating any term of use contained in, or the
8 expiration of, any permit relating to the
9 person's presence on the property; or

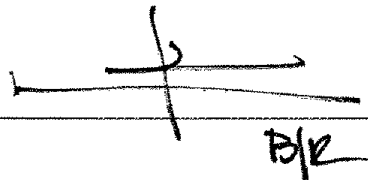
10 (v) The public property is in danger of being damaged
11 or destroyed as a result of the person entering
12 or remaining on the public property."

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

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

18 SECTION 4. This Act shall take effect upon its approval.

19 INTRODUCED BY: _____

A handwritten signature consisting of a vertical line with a horizontal line crossing it, and the initials "B/R" written below.



Report Title:

Criminal Trespass in the 2nd Degree

Description:

Includes entering or remaining on public property in the offense of criminal trespass in the second degree.

