
Judiciary Committee

ESB 5048

Title: An act relating to notice against trespass.

Brief Description: Concerning notice against trespass.

Sponsors: Senators Sheldon, Benton and Hargrove.

<p style="text-align: center;">Brief Summary of Engrossed Bill</p> <ul style="list-style-type: none">• Defines "posting in a conspicuous manner," in the context of criminal trespass statutes, to include posting signs or the placement of fluorescent orange paint marks on trees or posts on the property.

Hearing Date: 3/20/13

Staff: Cece Clynch (786-7195).

Background:

"Enters or remains unlawfully" is one of the elements of the crimes of criminal trespass in the first degree and second degree. Knowingly entering or remaining unlawfully in a building is Criminal Trespass in the first degree, a gross misdemeanor. Knowingly entering or remaining on premises of another under circumstances not constituting first degree Criminal Trespass is Criminal Trespass in the second degree, a misdemeanor.

"Enters or remains unlawfully" is defined in pertinent part as follows:

- A person "enters or remains unlawfully" in or upon premises when he or she is not then licensed, invited, or otherwise privileged to so enter or remain.

... A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him or her by the owner of the land or some other authorized person, *or unless notice is*

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given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible *or if notice is given by posting in a conspicuous manner.* Similarly, a field fenced in any manner is not unimproved and apparently unused land. A license or privilege to enter or remain on improved and apparently used land that is open to the public at particular times, which is neither fenced nor otherwise enclosed in a manner to exclude intruders, is not a license or privilege to enter or remain on the land at other times *if notice of prohibited times of entry is posted in a conspicuous manner.*

What constitutes "posting in a conspicuous manner" is not defined in statute.

Summary of Bill:

"Posting in a conspicuous manner" is defined. It includes:

1. Posting a sign or signs reasonably likely to come to the attention of intruders, indicating that entry is restricted; *or*
2. Placement of identifying fluorescent orange paint marks on trees or posts on property. Such marks must be:
 - a. Vertical lines not less than eight inches in length and not less than one inch in width;
 - b. Placed so that the bottom of the mark is between three and five feet from the ground; *and*
 - c. Placed at locations that are readily visible to any person approaching the property and no more than 100 feet apart on forest land, or 1000 feet apart on other land.

A landowner must use signs for posting in a conspicuous manner on access roads.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.