

# SENATE BILL REPORT

## ESB 5048

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As Amended by House, March 5, 2014

**Title:** An act relating to notice against trespass.

**Brief Description:** Concerning notice against trespass.

**Sponsors:** Senators Sheldon, Benton and Hargrove.

**Brief History:**

**Committee Activity:** Law & Justice: 1/30/13, 2/01/13 [DP, DNP, w/oRec].

Passed Senate: 3/07/13, 38-11; 2/10/14, 31-17.

Passed House: 3/05/14, 96-2.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; Pearson, Roach and Carrell.

**Minority Report:** Do not pass.

Signed by Senators Kline, Ranking Member; Darneille.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Kohl-Welles.

**Staff:** Aldo Melchiori (786-7439)

**Background:** Generally, trespass occurs when a person knowingly enters or remains unlawfully in or upon the property of another. A person enters or remains unlawfully when the person is not licensed, invited, or otherwise privileged to enter or remain on the property. The type, appearance, and use of the land determine whether a person has a license or privilege to be on the property. However, a property owner can provide notice against trespass by posting in a conspicuous manner.

Many states across the United States have enacted laws that provide landowners with an alternative method for giving notice against trespass. Under these laws, a landowner can paint markings on trees or posts pursuant to the specifications in the statute about the color, size, and location of the marking. If all statutory requirements are met, the markings on the trees or posts provide sufficient notice against trespass and the landowner does not need to post signs.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Engrossed Bill:** A person posts in a conspicuous manner by posting signs that are reasonably likely to make intruders aware that entry is restricted or by placing fluorescent orange paint marks on trees or posts on the property. The fluorescent orange marks must be vertical lines at least eight inches long and at least one inch wide. The bottom of the mark must be between three and five feet from the ground. The marks must be placed in locations that are readily visible to any person approaching the property. If the land is forest, the marks cannot be more than 100 feet apart. If the land is not forest, the marks cannot be more than 1000 feet apart. A landowner must use signs for posting in a conspicuous manner on access roads.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Trespass has become a big issue. Tree farmers, ranchers, farmers, and private individuals with land have problems with trespassers, many of whom commit theft of metal, hay, equipment, and livestock. A challenge with trespass is proving that a person knowingly trespassed on the land. Often trespassers state that they did not know the land was private. Signs can be expensive, and even if used, they can easily be torn down. Using paint for notice is cost effective and efficient. Paint is a universal message of notice against trespass since no trespassing signs may be written in a language that some people do not speak. Paint will allow landowners a way to mark their property lines. Loggers' paint is a very durable paint that would not need to be replaced often. The use of fluorescent orange paint has proven to be effective to protect against trespass in other states.

**Persons Testifying:** PRO: Senator Sheldon, prime sponsor; Sam Comstock, WA Farm Forestry Assn.; Jack Field, WA Cattlemen's Assn.

**House Amendment(s):** A landowner may use the orange paint marks to provide notice against trespass only on land outside urban growth areas and incorporated cities and towns.