

HOUSE BILL REPORT

SSB 6117

As Reported by House Committee On:
Judiciary

Title: An act relating to notice against trespass.

Brief Description: Concerning notice against trespass.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator Sheldon).

Brief History:

Committee Activity:

Judiciary: 2/23/16, 2/26/16 [DP].

Brief Summary of Substitute Bill

- Defines "posting in a conspicuous manner," in the context of criminal trespass statutes, to include the use of signs, vertical orange paint marks, or both.
- Encourages the Department of Fish and Wildlife, the Department of Natural Resources, and the State Parks and Recreation Commission to inform the public about the meaning of vertical orange paint marks.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Staff: Kelly Holler (786-7290) and Cece Clynch (786-7195).

Background:

Generally, the crime of trespass occurs when a person knowingly enters or remains unlawfully on another person's property. Criminal Trespass in the first degree, a gross misdemeanor, occurs when a person knowingly enters or remains unlawfully in a building belonging to another person. Criminal Trespass in the second degree, a misdemeanor, occurs if a person knowingly enters or remains unlawfully on another person's premises other than a building.

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.

A person enters or remains unlawfully on premises 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 may impact whether a person has a license or privilege to be on the property. For example, a person who enters or remains upon unimproved or apparently unused land that is unfenced or not enclosed to exclude intruders has license and privilege to do so, unless notice against trespass is provided. A property owner may provide notice against trespass by: (1) personally communicating such notice to an individual; or (2) posting in a conspicuous manner. However, "posting in a conspicuous manner" is not defined in statute.

Some 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 markings. If all statutory requirements are met, the markings on the trees or posts provide sufficient notice against trespass.

Summary of Bill:

"Posting in a conspicuous manner" for purposes of providing notice against trespass may include posting signage that is reasonably likely to come to the attention of intruders indicating that entry is restricted, placing identifying fluorescent orange paint marks on trees or posts on the property, or a combination of signs and paint marks.

The option to use orange paint marks for posting in a conspicuous manner is limited to property located outside of urban growth areas and incorporated cities and towns. Orange paint marks must be:

- vertical lines approximately 12 inches in length and not less than 1 inch in width;
- placed so that the bottom of the mark is between three and five feet from the ground;
- placed at locations that are readily visible to any person approaching the property;
- and
- no more than 100 feet apart on forest land, or 1,000 feet apart on other land.

Fluorescent orange paint marks may not be used for posting in a conspicuous manner on a road or driveway approved by the owner for motorized access where vehicles can enter the property.

The Department of Fish and Wildlife, the Department of Natural Resources, and the State Parks and Recreation Commission are encouraged to use their websites and publications to inform the public as to the meaning of orange paint marks on trees or posts.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on July 1, 2017.

Staff Summary of Public Testimony:

(In support) This bill will save both time and money in preventing trespass by allowing a more permanent and inexpensive way to provide notice against trespass. Currently, notice against trespass must be communicated by posting signs at the boundaries of property, and these signs are often torn down. Trespassers are sometimes able to avoid prosecution or conviction by claiming they had no notice against trespass at the boundaries of property.

When property is entered by trespassers and vandalized, destroyed, or stolen, both big and small landowners lose money and workers lose access to their livelihood. Large companies often need to hire employees to patrol property or use expensive air vehicles or remote cameras to protect property from trespass and theft. Small landowners are harmed by trespass because they sometimes have valuable, rare types of plants on their property that serve as targets for trespassers. In addition, persons who make their living picking forest products or brush are harmed when trespassers steal or destroy the property on which laborers harvest plants. These individuals authorized to make a living harvesting plants cannot make such a living when the product is stolen. This bill protects landowners and laborers by providing a more permanent, inexpensive way to communicate notice against trespass. This prevents unintentional trespass and deters intentional trespassers by making it easier to prosecute trespassing.

(Opposed) None.

Persons Testifying: Senator Sheldon, prime sponsor; and Ken Miller and Howard Wilson, Washington Farm Forestry Association.

Persons Signed In To Testify But Not Testifying: None.