

SENATE BILL 1811

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 29;
Title 39, Chapter 14 and Title 40, relative to
offenses against property.

WHEREAS, the State of Tennessee is a right to work state and recognizes the importance of protecting access to employment as well as an employer's property rights; and

WHEREAS, this state has a compelling interest in protecting the safety and well-being of the public from violence, threats of violence, intimidation and other disruptive behavior that may be caused during a trespass; and

WHEREAS, certain limited and reasonable restrictions are necessary to protect our citizens from these harms; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Section 39-14-405(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a)

(1) A person commits criminal trespass if the person enters or remains on property, or any portion of property, without the consent of the owner. Consent may be inferred in the case of property that is used for commercial activity available to the general public or in the case of other property when the owner has communicated the owner's intent that the property be open to the general public.

(2) For purposes of this section, "person" includes an individual who is not employed by the owner and who, individually or on behalf of employees or a

labor organization, enters or remains on property, or any portion of property, without the consent of the owner.

SECTION 2. Tennessee Code Annotated, Section 39-14-405(d), is amended by adding the language “except in accordance with subdivision (a)(2),” immediately after the language “For purposes of this section,”.

SECTION 3. Tennessee Code Annotated Section 39-14-405, is amended by adding the following as subsection (f) and by redesignating the remaining subsections accordingly:

(f)

(1) The secretary of state shall establish a no trespass public notice list identifying employers in this state who have requested established private property rights to be recognized and recorded against a person described in subdivision (a)(2).

(2) To be included on the list, an employer shall provide to the secretary of state copies of appropriate documents that establish the employer’s private property rights, including the address and legal description of the property to which it has legal control. An employer that records its private property rights shall pay a recording fee as determined by the secretary of state.

(3) Beginning January 15, 2015, and every January 15 and July 15 thereafter, the secretary of state shall:

(A) Publish the no trespass public notice list at least once each week for four (4) consecutive weeks in a newspaper of general circulation in the county in which listed property is located. If there is no newspaper of general circulation in such county, the list shall be published in a newspaper of general circulation in an adjoining county. The secretary of state shall make the list available to the public in the secretary of state’s office and shall publish the list on the web site maintained by the secretary of state; and

(B) Distribute the no trespass public notice list to every law enforcement agency in this state.

(4) Publication of the no trespass public notice list as prescribed in subdivision (3) establishes a presumption that members of the general public have notice of the establishment of private property rights of all employers and properties listed.

(5) Each law enforcement agency in this state shall maintain the most recent no trespass public notice list received from the secretary of state for its use in responding to complaints of criminal trespass under subsection (a). If a property is identified on the list, the responding law enforcement officer:

(A) Is not required to further establish an employer's property rights before taking action against a person, as described in subdivision (a)(2), committing criminal trespass; and

(B) May take appropriate and lawful action against a person, as described in subdivision (a)(2), committing criminal trespass to have such person leave the property or cease blocking ingress to or egress from the property.

(6) If the employer's property is listed on the no trespass public notice list, an owner may seek an expedited injunction to restrain repeated or continuing trespass.

(7) This section does not affect or limit any existing rights of an owner whose property is not included on the no trespass public notice list.

SECTION 4. The secretary of state is authorized to promulgate rules to effectuate the purposes of this act. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. This act shall take effect July 1, 2014, the public welfare requiring it.