

TRESPASS PENALTY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill makes changes related to civil penalties for trespassing on private property.

Highlighted Provisions:

This bill:

- ▶ imposes liability for civil damages against a person who is convicted of criminal trespass or of entering on private land, without permission, while hunting or fishing;
- ▶ adjusts the amount of civil damages that a person may be liable for when the person commits criminal trespass on agricultural land or range land; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-20-14, as last amended by Laws of Utah 2012, Chapter 268

76-6-206, as last amended by Laws of Utah 2017, Chapter 364

76-6-206.3, as last amended by Laws of Utah 2021, Chapter 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **23-20-14** is amended to read:

23-20-14. Definitions -- Posted property -- Hunting by permission -- Entry on

30 **private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable**
31 **to officers.**

32 (1) As used in this section:

33 (a) "Cultivated land" means land that is readily identifiable as:

34 (i) land whose soil is loosened or broken up for the raising of crops;

35 (ii) land used for the raising of crops; or

36 (iii) pasturage which is artificially irrigated.

37 (b) "Division" means the Division of Wildlife Resources.

38 (c) "Permission" means written authorization from the owner or person in charge to
39 enter upon private land that is either cultivated or properly posted, and shall include:

40 (i) the signature of the owner or person in charge;

41 (ii) the name of the person being given permission;

42 (iii) the appropriate dates; and

43 (iv) a general description of the property.

44 (d) "Properly posted" means that signs prohibiting trespass or bright yellow, bright
45 orange, or fluorescent paint are clearly displayed:

46 (i) at all corners, fishing streams crossing property lines, roads, gates, and
47 rights-of-way entering the land; or

48 (ii) in a manner that would reasonably be expected to be seen by a person in the area.

49 (2) (a) While taking wildlife or engaging in wildlife related activities, a person may
50 not:

51 (i) without permission, enter upon privately owned land that is cultivated or properly
52 posted;

53 (ii) enter or remain on privately owned land if the person has notice to not enter or
54 remain on the privately owned land; or

55 (iii) obstruct any entrance or exit to private property.

56 (b) A person has notice to not enter or remain on privately owned land if:

57 (i) the person is directed to not enter or remain on the land by:

- 58 (A) the owner of the land;
- 59 (B) the owner's employee; or
- 60 (C) a person with apparent authority to act for the owner; or
- 61 (ii) the land is fenced or otherwise enclosed in a manner that a reasonable person
- 62 would recognize as intended to exclude intruders.
- 63 (c) The division shall provide "hunting by permission cards" to a landowner upon the
- 64 landowner's request.
- 65 (d) A person may not post:
- 66 (i) private property the person does not own or legally control; or
- 67 (ii) land that is open to the public as provided by Section [23-21-4](#).
- 68 (3) (a) A person convicted of violating Subsection (2)(a) may have the person's license,
- 69 tag, certificate of registration, or permit, relating to the activity engaged in at the time of the
- 70 violation, revoked by a hearing officer.
- 71 (b) A hearing officer may construe any subsequent conviction which occurs within a
- 72 five-year period as a flagrant violation and may prohibit the person from obtaining a new
- 73 license, tag, certificate of registration, or permit for a period of up to five years.
- 74 (4) Subsection (2)(a) does not apply to peace or conservation officers in the
- 75 performance of their duties.
- 76 (5) (a) The division shall provide information regarding owners' rights and sportsmen's
- 77 duties:
- 78 (i) to anyone holding licenses, certificates of registration, tags, or permits to take
- 79 wildlife; and
- 80 (ii) by using the public media and other sources.
- 81 (b) The restrictions in this section relating to trespassing shall be stated in all hunting
- 82 and fishing proclamations issued by the Wildlife Board.
- 83 (6) A person who violates Subsection (2)(a) or (d) is guilty of a class B misdemeanor[;]
- 84 and liable for the civil damages described in Subsection (7).
- 85 (7) In addition to an order for restitution under Section [77-38b-205](#), a person who

86 commits a violation of Subsection (2)(a) or (d) may also be liable for:

87 (a) statutory damages in the amount of three times the value of damages resulting from
88 the violation of Subsection (2)(a) or (d) or \$500, whichever is greater; and

89 (b) reasonable attorney fees not to exceed \$250, and court costs.

90 (8) Civil damages under Subsection (7) may be collected in a separate action by the
91 property owner or the owner's assignee.

92 Section 2. Section **76-6-206** is amended to read:

93 **76-6-206. Criminal trespass.**

94 (1) As used in this section:

95 (a) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

96 (b) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining
97 on or over private property when:

98 (i) the private property or any portion of the private property is not open to the public;

99 and

100 (ii) the person operating the unmanned aircraft is not otherwise authorized to fly the
101 unmanned aircraft over the private property or any portion of the private property.

102 (2) A person is guilty of criminal trespass if, under circumstances not amounting to
103 burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section
104 76-10-2402 regarding commercial obstruction:

105 (a) the person enters or remains unlawfully on or causes an unmanned aircraft to enter
106 and remain unlawfully over property and:

107 (i) intends to cause annoyance or injury to any person or damage to any property,
108 including the use of graffiti as defined in Section 76-6-107;

109 (ii) intends to commit any crime, other than theft or a felony; or

110 (iii) is reckless as to whether the person's or unmanned aircraft's presence will cause
111 fear for the safety of another;

112 (b) knowing the person's or unmanned aircraft's entry or presence is unlawful, the
113 person enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over

114 property to which notice against entering is given by:

115 (i) personal communication to the person by the owner or someone with apparent
116 authority to act for the owner;

117 (ii) fencing or other enclosure obviously designed to exclude intruders; or

118 (iii) posting of signs reasonably likely to come to the attention of intruders; or

119 (c) the person enters a condominium unit in violation of Subsection [57-8-7\(8\)](#).

120 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless the
121 violation is committed in a dwelling, in which event the violation is a class A misdemeanor.

122 (b) A violation of Subsection (2)(c) is an infraction.

123 (4) It is a defense to prosecution under this section that:

124 (a) the property was at the time open to the public; and

125 (b) the actor complied with all lawful conditions imposed on access to or remaining on
126 the property.

127 (5) In addition to an order for restitution under Section [77-38b-205](#), a person who
128 commits a violation of Subsection (2) may also be liable for:

129 (a) statutory damages in the amount of three times the value of damages resulting from
130 the violation of Subsection (2) or \$500, whichever is greater; and

131 (b) reasonable attorney fees not to exceed \$250, and court costs.

132 (6) Civil damages under Subsection (5) may be collected in a separate action by the
133 property owner or the owner's assignee.

134 Section 3. Section **76-6-206.3** is amended to read:

135 **76-6-206.3. Criminal trespass on agricultural land or range land.**

136 (1) As used in this section:

137 (a) "Agricultural or range land" and "land" mean land as defined under Subsections
138 (1)(d) and (e).

139 (b) "Authorization" means specific written permission by, or contractual agreement
140 with, the owner or manager of the property.

141 (c) "Criminal trespass" means the elements of the crime of criminal trespass under

142 Section 76-6-206.

143 (d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

144 (e) "Range land" means privately owned land that is not fenced or divided into lots and
145 that is generally unimproved. This land includes land used for livestock.

146 (2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass
147 on agricultural or range land and is liable for the civil damages under Subsection (5) if, under
148 circumstances not amounting to a greater offense, and without authorization or a right under
149 state law, the person enters or remains on agricultural or range land regarding which notice
150 prohibiting entry is given by:

151 (a) personal communication to the person by the owner of the land, an employee of the
152 owner, or a person with apparent authority to act for the owner;

153 (b) fencing or other form of enclosure a reasonable person would recognize as intended
154 to exclude intruders; or

155 (c) posted signs or markers that would reasonably be expected to be seen by persons in
156 the area of the borders of the land.

157 (3) A person is guilty of the class B misdemeanor criminal offense of cutting,
158 destroying, or rendering ineffective the fencing of agricultural or range land if the person
159 willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

160 (4) In addition to an order for restitution under Section 77-38b-205, a person who
161 commits any violation of Subsection (2) or (3) may also be liable for:

162 (a) statutory damages in the amount of three times the value of damages resulting from
163 the violation of Subsection (2) or \$500, whichever is greater; and

164 (b) reasonable attorney fees not to exceed \$250, and court costs.

165 (5) Civil damages under Subsection (4) may be collected in a separate action by the
166 owner of the agricultural or range land or the owner's assignee.