

HOUSE BILL NO. 231

INTRODUCED BY P. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING TRESPASS; PROVIDING THAT FOR RESIDENTIAL PROPERTIES WRITTEN PERMISSION OF THE LANDOWNER OR OTHER AUTHORIZED PERSON IS REQUIRED; PROVIDING THAT WHEN THE PRIVILEGE TO REMAIN IS REVOKED THE PERSON'S PRESENCE BECOMES UNAUTHORIZED; PROVIDING THAT CRIMINAL TRESPASS INCLUDES REMAINING UNLAWFULLY IN AN UNOCCUPIED STRUCTURE; AMENDING SECTIONS 45-6-201 AND 45-6-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-6-201, MCA, is amended to read:

**"45-6-201. Definition of enter or remain unlawfully.** (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person. If the privilege is revoked, the person becomes an unauthorized person as defined in 70-24-103.

(2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:

1 (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the  
2 private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT  
3 \_\_\_ MILES"; or

4 (b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway  
5 at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land,  
6 except that orange markings may not be placed on posts where the public roadway enters the private land.

7 (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered  
8 closed to public access unless explicit permission to enter is given by the landowner or the landowner's  
9 authorized agent.

10 (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding  
11 hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits,  
12 in condensed form, the provisions of this section concerning entry on private land. The department shall use  
13 public media, as well as its own publications, in attempting to educate and inform other recreational users of the  
14 provisions of this section. In the interests of providing the public with clear information regarding the public nature  
15 of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the  
16 requirements of subsection (3).

17 (6) For purposes of this section, "land" means land as defined in 70-15-102.

18 (7) Civil liability may not be imposed upon the owner or occupier of premises by reason of any privilege  
19 created by this section.

20 (8) (a) If the property is residential, posting as provided in subsection (2) is not required and the premises  
21 is considered closed to the public unless written permission is granted by the property owner or authorized  
22 person. If a person claims to have lawful access to the property the person must produce written permission from  
23 the property owner or authorized person upon request. If the person is unable to produce written permission, the  
24 person's presence is unlawful. If the person fails to produce written permission, the person becomes an  
25 unauthorized person as defined in 70-24-103.

26 (b) For purposes of this subsection (8), the term "residential" means a structure in which people live."  
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28 **Section 2.** Section 45-6-203, MCA, is amended to read:

29 **"45-6-203. Criminal trespass to property.** (1) Except as provided in 15-7-139, 70-16-111, and  
30 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

1 (a) enters or remains unlawfully in an occupied or unoccupied structure; or

2 (b) enters or remains unlawfully in or upon the premises of another.

3 (2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500  
4 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

5 (3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving  
6 property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping  
7 may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from  
8 the date of conviction or forfeiture."

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10 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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12 NEW SECTION. Section 4. Applicability. [This act] applies to criminal trespass incidents taking place  
13 on or after [the effective date of this act].

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