

HOUSE BILL NO. 231

INTRODUCED BY P. WEBB

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING TRESPASS; PROVIDING THAT
5 FOR RESIDENTIAL PROPERTIES WRITTEN PERMISSION OF THE LANDOWNER OR OTHER AUTHORIZED
6 PERSON IS REQUIRED; PROVIDING THAT WHEN THE PRIVILEGE TO REMAIN IS REVOKED THE
7 PERSON'S PRESENCE BECOMES UNAUTHORIZED; ~~REMOVING THE REQUIREMENT TO POST NOTICE~~
8 ~~DENYING ENTRY ONTO PRIVATE LAND~~; PROVIDING THAT CRIMINAL TRESPASS INCLUDES REMAINING
9 UNLAWFULLY IN AN UNOCCUPIED STRUCTURE; AMENDING SECTIONS 45-6-201 AND 45-6-203, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 45-6-201, MCA, is amended to read:
15 **"45-6-201. Definition of enter or remain unlawfully.** (1) A person enters or remains unlawfully in or
16 upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged
17 to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or
18 other authorized person ~~or by the failure of the landowner or other authorized person to post notice denying entry~~
19 ~~onto private land~~. The privilege may be revoked at any time by personal communication of notice by the
20 landowner or other authorized person to the entering person. If the privilege is revoked AS PROVIDED IN
21 SUBSECTION (5)(A), the person becomes an unauthorized person as defined in 70-24-103 AND MUST BE
22 IMMEDIATELY REMOVED FROM THE PREMISES.

23 ~~(2) To provide for effective posting of private land through which the public has no right-of-way, the notice~~
24 ~~provided for in subsection (1) must satisfy the following requirements:~~
25 ~~—— (a) notice must be placed on a post, structure, or natural object by marking it with written notice or with~~
26 ~~not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the~~
27 ~~entire post must be painted; and~~
28 ~~—— (b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of~~
29 ~~access to the property, including both sides of a water body crossing the property wherever the water body~~
30 ~~intersects an outer boundary line.~~

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

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

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

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

12 (2) TO PROVIDE FOR EFFECTIVE POSTING OF PRIVATE LAND THROUGH WHICH THE PUBLIC HAS NO RIGHT-OF-WAY,
 13 THE NOTICE PROVIDED FOR IN SUBSECTION (1) MUST SATISFY THE FOLLOWING REQUIREMENTS:

14 (A) NOTICE MUST BE PLACED ON A POST, STRUCTURE, OR NATURAL OBJECT BY MARKING IT WITH WRITTEN NOTICE
 15 OR WITH NOT LESS THAN 50 SQUARE INCHES OF FLUORESCENT ORANGE PAINT, EXCEPT THAT WHEN METAL FENCEPOSTS
 16 ARE USED, THE ENTIRE POST MUST BE PAINTED; AND

17 (B) THE NOTICE DESCRIBED IN SUBSECTION (2)(A) MUST BE PLACED AT EACH OUTER GATE AND NORMAL POINT
 18 OF ACCESS TO THE PROPERTY, INCLUDING BOTH SIDES OF A WATER BODY CROSSING THE PROPERTY WHEREVER THE
 19 WATER BODY INTERSECTS AN OUTER BOUNDARY LINE.

20 (3) TO PROVIDE FOR EFFECTIVE POSTING OF PRIVATE LAND THROUGH WHICH OR ALONG WHICH THE PUBLIC HAS
 21 AN UNFENCED RIGHT-OF-WAY BY MEANS OF A PUBLIC ROAD, A LANDOWNER SHALL:

22 (A) PLACE A CONSPICUOUS SIGN NO CLOSER THAN 30 FEET OF THE CENTERLINE OF THE ROADWAY WHERE IT
 23 ENTERS THE PRIVATE LAND, STATING WORDS SUBSTANTIALLY SIMILAR TO "PRIVATE PROPERTY, NO TRESPASSING
 24 OFF ROAD NEXT ___ MILES"; OR

25 (B) PLACE NOTICE, AS DESCRIBED IN SUBSECTION (2)(A), NO CLOSER THAN 30 FEET OF THE CENTERLINE OF THE
 26 ROADWAY AT REGULAR INTERVALS OF NOT LESS THAN ONE-FOURTH MILE ALONG THE ROADWAY WHERE IT BORDERS
 27 UNFENCED PRIVATE LAND, EXCEPT THAT ORANGE MARKINGS MAY NOT BE PLACED ON POSTS WHERE THE PUBLIC ROADWAY
 28 ENTERS THE PRIVATE LAND.

29 (4) IF PROPERTY HAS BEEN POSTED IN SUBSTANTIAL COMPLIANCE WITH SUBSECTION (2) OR (3), IT IS
 30 CONSIDERED CLOSED TO PUBLIC ACCESS UNLESS EXPLICIT PERMISSION TO ENTER IS GIVEN BY THE LANDOWNER OR THE

1 LANDOWNER'S AUTHORIZED AGENT.

2 ~~(5)(2)(5)~~ The department of fish, wildlife, and parks shall attempt to educate and inform all persons
3 holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses
4 or permits, in condensed form, the provisions of this section concerning entry on private land. The department
5 shall use public media, as well as its own publications, in attempting to educate and inform other recreational
6 users of the provisions of this section. In the interests of providing the public with clear information regarding the
7 public nature of certain unfenced rural rights-of-way, the department may develop and distribute posting signs
8 that satisfy the requirements of subsection (3).

9 ~~(6)(3)(6)~~ For purposes of this section, "land" means land as defined in 70-15-102.

10 ~~(7)(4)(7)~~ Civil liability may not be imposed upon the owner or occupier of premises by reason of any
11 privilege created by this section.

12 ~~(8)(5)(8) (a) If the property is residential FOR RENT OR LEASE OR HAS A VALID RENTAL AGREEMENT, AS~~
13 ~~DEFINED IN 70-24-103 OR 70-33-103, POSTING AS PROVIDED IN SUBSECTION (2) IS NOT REQUIRED AND, posting as~~
14 ~~provided in subsection (2) is not required and the premises is considered closed to the public unless written~~
15 ~~permission is granted by the property owner or authorized person LANDLORD OR TENANT, AS DEFINED IN 70-24-103~~
16 ~~OR 70-33-103. If a person IS ASKED TO LEAVE THE PROPERTY OR claims to have lawful access A VALID RENTAL~~
17 ~~AGREEMENT to the property, the person must produce written permission OR A VALID RENTAL AGREEMENT from the~~
18 ~~property owner or authorized person LANDLORD upon request. If the person DOES NOT LEAVE OR is unable to~~
19 ~~produce written permission OR A VALID RENTAL AGREEMENT, the person's presence is unlawful AND THE PERSON~~
20 ~~BECOMES AN UNAUTHORIZED PERSON AS DEFINED IN 70-24-103 AND MUST BE REMOVED FROM THE PREMISES~~
21 ~~IMMEDIATELY. If the person fails to produce written permission, the person becomes an unauthorized person as~~
22 ~~defined in 70-24-103.~~

23 ~~———— (b) For purposes of this subsection (8) (5) (8), the term "residential" means a structure in which people~~
24 ~~live."~~

25
26 **Section 2.** Section 45-6-203, MCA, is amended to read:
27 **"45-6-203. Criminal trespass to property.** (1) Except as provided in 15-7-139, 70-16-111, and
28 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:
29 (a) enters or remains unlawfully in an occupied or unoccupied structure; or
30 (b) enters or remains unlawfully in or upon the premises of another.

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

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

7

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

9

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

12

- END -