

HOUSE BILL NO. 911

INTRODUCED BY HANNAH, D. BROWN

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

IN THE HOUSE

February 19, 1985	Rules suspended to allow introduction.
February 20, 1985	Introduced and referred to Committee on Judiciary.
February 23, 1985	Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks.
February 25, 1985	Second reading, do pass. Considered correctly engrossed.
February 27, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Judiciary.
March 28, 1985	Committee recommend bill be concurred in as amended. Report adopted.
April 1, 1985	Second reading, concurred in. On motion, rules suspended and bill placed on third reading this day.

April 1, 1985

Third reading, concurred in.
Ayes, 50; Noes, 0.

Returned to House with
amendments.

IN THE HOUSE

April 2, 1985

Received from Senate.

April 8, 1985

Second reading, amendments
concurred in.

On motion, rules suspended and
bill placed on third reading
this day.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 911
 2 INTRODUCED BY Harold Love Brown
 3 BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC
 6 REQUIREMENTS FOR POSTING OF LAND FOR THE PURPOSES OF THE
 7 CRIMINAL TRESPASS LAW; EXPANDING THE AUTHORITY OF WARDENS TO
 8 ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER
 9 LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES;
 10 AMENDING SECTIONS 45-6-201 AND 87-1-504, MCA; AND PROVIDING
 11 AN IMMEDIATE EFFECTIVE DATE."

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

14 Section 1. Section 45-6-201, MCA, is amended to read:
 15 "45-6-201. Definition of "enter or remain unlawfully".
 16 (1) A person enters or remains unlawfully in or upon any
 17 vehicle, occupied structure, or premises when he is not
 18 licensed, invited, or otherwise privileged to do so. A
 19 ~~person--who--enters--or--remains--upon--land--does--so--with~~
 20 ~~privilege--unless--notice--is--personally--communicated--to--him--by~~
 21 ~~an--authorized--person--or--unless--such--notice--is--given--by~~
 22 ~~posting--in--a--conspicuous--manner.~~ Privilege to enter or
 23 remain upon land is extended either by the explicit
 24 permission of the landowner or other authorized person or by
 25 the failure of the landowner or other authorized person to

1 post notice denying entry onto private land.
 2 (2) ~~In--no--event--shall--civil--liability--be--imposed--upon~~
 3 ~~the--owner--or--occupier--of--premises--by--reason--of--any--privilege~~
 4 ~~created--by--this--section.~~ To be effective under this section,
 5 the notice provided for in subsection (1) must satisfy the
 6 following requirements:
 7 (a) written notice must be affixed to a post,
 8 structure, or natural object that has been marked with a
 9 strip of fluorescent orange paint at least 3 feet high; and
 10 (b) the notice described in subsection (2)(a) must be
 11 placed at each outer gate and normal point of access to the
 12 property and at all points where any water body crossing the
 13 property intersects an outer boundary line.
 14 (3) At least twice a year, once at least 15 days prior
 15 to the opening of the general fishing season and once at
 16 least 15 days prior to the opening of the general big game
 17 hunting season, the landowner or authorized person must
 18 determine that written notices are in place on each post,
 19 structure, or natural object as required by subsection
 20 (2)(b).
 21 (4) If property has been posted in accordance with
 22 subsection (2) and has been inspected in accordance with
 23 subsection (3), it is considered closed to public access
 24 from each point at which a post, structure, or natural
 25 object painted as required by subsection (2)(a) remains,



1 whether or not the written notice remains affixed to the
2 post, structure, or natural object at such point.

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

5 Section 2. Section 87-1-504, MCA, is amended to read:

6 "87-1-504. Protection of private property -- wardens
7 as ex officio fire wardens. (1) It shall be the duty of
8 wardens (state conservation officers) to enforce the
9 provisions of 45-6-101, 45-6-203, and 75-10-212(2) on
10 private lands ~~where public recreation is permitted~~ being
11 used for recreational purposes and to act as ex officio fire
12 wardens as provided by 77-5-104.

13 (2) As used in this section, "recreational purposes"
14 means recreational purposes as defined in 70-16-301."

15 NEW SECTION. Section 3. Effective date. This act is
16 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 911

INTRODUCED BY HANNAH, D. BROWN

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING SPECIFIC REQUIREMENTS FOR POSTING OF LAND FOR THE PURPOSES OF THE CRIMINAL TRESPASS LAW; EXPANDING THE AUTHORITY OF WARDENS TO ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES; AMENDING SECTIONS 45-6-201 AND 87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE 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 he is not licensed, invited, or otherwise privileged to do so. A person who enters or remains upon land does so with privilege unless notice is personally communicated to him by an authorized person or unless such notice is given by posting in a conspicuous manner. 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. SUCH PRIVILEGE MAY BE REVOKED AT ANY TIME BY PERSONAL COMMUNICATION OF NOTICE BY THE LANDOWNER OR OTHER AUTHORIZED PERSON TO THE ENTERING PERSON.

~~(2) In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section. To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:~~

~~(a) written notice must be affixed to PLACED ON a post, structure, or natural object that has been marked BY MARKING IT WITH WRITTEN NOTICE OR with a strip of fluorescent orange paint at least 3 feet high; and~~

~~(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property and at all points where any water body crossing the property intersects an outer boundary line.~~

~~(3) At least twice a year, once at least 15 days prior to the opening of the general fishing season and once at least 15 days prior to the opening of the general big game hunting season, the landowner or authorized person must determine that written notices are in place on each post, structure, or natural object as required by subsection~~

~~(2)(b):~~

~~(4)(3) If property has been posted in accordance~~



1 SUBSTANTIAL COMPLIANCE with subsection (2) and has been
 2 inspected in accordance with subsection (3), it is
 3 considered closed to public access from each point at which
 4 a post, structure, or natural object painted as required by
 5 subsection (2)(a) remains, whether or not the written notice
 6 remains affixed to the post, structure, or natural object at
 7 such point UNLESS EXPLICIT PERMISSION TO ENTER IS GIVEN BY
 8 THE LANDOWNER OR HIS AUTHORIZED AGENT.

9 (4) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS SHALL
 10 ATTEMPT TO EDUCATE AND INFORM ALL PERSONS HOLDING HUNTING,
 11 FISHING, OR TRAPPING LICENSES OR PERMITS BY INCLUDING ON ANY
 12 PUBLICATION CONCERNING SUCH LICENSES OR PERMITS, IN
 13 CONDENSED FORM, THE PROVISIONS OF THIS SECTION CONCERNING
 14 ENTRY ON PRIVATE LAND.

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

17 (6) IN NO EVENT SHALL CIVIL LIABILITY BE IMPOSED UPON
 18 THE OWNER OR OCCUPIER OF PREMISES BY REASON OF ANY PRIVILEGE
 19 CREATED BY THIS SECTION."

20 Section 2. Section 87-1-504, MCA, is amended to read:

21 "87-1-504. Protection of private property -- wardens
 22 as ex officio fire wardens. (1) It shall be the duty of
 23 wardens (state conservation officers) to enforce the
 24 provisions of 45-6-101, 45-6-203, and 75-10-212(2) on
 25 private lands where public recreation is permitted being

1 used for recreational purposes and to act as ex officio fire
 2 wardens as provided by 77-5-104.

3 (2) As used in this section, "recreational purposes"
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17 vehicle, occupied structure, or premises when he is not
18 licensed, invited, or otherwise privileged to do so. A
19 ~~person who enters or remains upon land does so with~~
20 ~~privilege unless notice is personally communicated to him by~~
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1 post notice denying entry onto private land. SUCH PRIVILEGE
2 MAY BE REVOKED AT ANY TIME BY PERSONAL COMMUNICATION OF
3 NOTICE BY THE LANDOWNER OR OTHER AUTHORIZED PERSON TO THE
4 ENTERING PERSON.

5 (2) ~~in no event shall civil liability be imposed upon~~
6 ~~the owner or occupier of premises by reason of any privilege~~
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8 ~~the notice provided for in subsection (1) must satisfy the~~
9 ~~following requirements:~~

10 (a) ~~written notice must be affixed to~~ PLACED ON a
11 ~~post, structure, or natural object that has been marked BY~~
12 ~~MARKING IT WITH WRITTEN NOTICE OR with a strip of~~
13 ~~fluorescent orange paint at least 3 feet high; and~~

14 (b) the notice described in subsection (2)(a) must be
15 placed at each outer gate and normal point of access to the
16 property and at all points where any water body crossing the
17 property intersects an outer boundary line.

18 ~~{3}--At least twice a year, once at least 15 days prior~~
19 ~~to the opening of the general fishing season and once at~~
20 ~~least 15 days prior to the opening of the general big game~~
21 ~~hunting season, the landowner or authorized person must~~
22 ~~determine that written notices are in place on each post,~~
23 ~~structure, or natural object as required by subsection~~
24 ~~{2}(b):~~

25 {4}(3) If property has been posted in accordance

1 SUBSTANTIAL COMPLIANCE with subsection (2) and has been
 2 inspected--in--accordance--with--subsection--(3), it is
 3 considered closed to public access from each point at which
 4 a post, structure, or natural object painted as required by
 5 subsection (2)(a) remains, whether or not the written notice
 6 remains affixed to the post, structure, or natural object at
 7 such point UNLESS EXPLICIT PERMISSION TO ENTER IS GIVEN BY
 8 THE LANDOWNER OR HIS AUTHORIZED AGENT.

9 (4) THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS SHALL
 10 ATTEMPT TO EDUCATE AND INFORM ALL PERSONS HOLDING HUNTING,
 11 FISHING, OR TRAPPING LICENSES OR PERMITS BY INCLUDING ON ANY
 12 PUBLICATION CONCERNING SUCH LICENSES OR PERMITS, IN
 13 CONDENSED FORM, THE PROVISIONS OF THIS SECTION CONCERNING
 14 ENTRY ON PRIVATE LAND.

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

17 (6) IN NO EVENT SHALL CIVIL LIABILITY BE IMPOSED UPON
 18 THE OWNER OR OCCUPIER OF PREMISES BY REASON OF ANY PRIVILEGE
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20 Section 2. Section 87-1-504, MCA, is amended to read:

21 "87-1-504. Protection of private property -- wardens
 22 as ex officio fire wardens. (1) It shall be the duty of
 23 wardens (state conservation officers) to enforce the
 24 provisions of 45-6-101, 45-6-203, and 75-10-212(2) on
 25 private lands where public--recreation--is--permitted being

1 used for recreational purposes and to act as ex officio fire
 2 wardens as provided by 77-5-104.

3 (2) As used in this section, "recreational purposes"
 4 means recreational purposes as defined in 70-16-301."

5 NEW SECTION. Section 3. Effective date. This act is
 6 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

March 28 19 85

MR. PRESIDENT

We, your committee on.....JUDICIARY.....
having had under consideration.....HOUSE BILL..... No. 911
third reading copy (blue)
color
(Senator Mazurek)

CRIMINAL TRESPASS POSTING REQUIREMENTS

Respectfully report as follows: That.....HOUSE BILL..... No. 911

be amended as follows:

1. Page 2, line 12.
Following: "with"
Strike: "a strip"
Insert: "not less than 50 square inches"
2. Page 2, line 13.
Following: "paint"
Strike: "at least 3 feet high"
Insert: ", except that when metal fenceposts are used, the entire post must be painted"
3. Page 2, line 16.
Following: "property"
Strike: "and at all points where any"
Insert: "including both sides of a"
4. Page 2, line 17.
Following: "property"
Insert: "wherever the water body"
5. Page 3, line 14.
Following: "LAND."
Insert: "The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section."

~~DOOR~~

AND AS AMENDED

~~DOOR~~

BE CONCURRED IN


.....
Senator Joe Mazurek

Chairman.

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(2) in no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section. To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:

(a) written notice must be affixed to PLACED ON a post, structure, or natural object that has been marked BY MARKING IT WITH WRITTEN NOTICE OR with a strip NOT LESS THAN 50 SQUARE INCHES of fluorescent orange paint, at least 3 feet high 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 and at all points where any, INCLUDING BOTH SIDES OF A water body crossing the property WHEREVER THE WATER BODY intersects an outer boundary line.

(3) At least twice a year, once at least 15 days prior to the opening of the general fishing season and once at least 15 days prior to the opening of the general big game hunting season, the landowner or authorized person must determine that written notices are in place on each post



1 ~~structure, or natural object as required by subsection~~
2 ~~(2)(b):~~

3 ~~(4)(3) If property has been posted in accordance~~
4 ~~SUBSTANTIAL COMPLIANCE with subsection (2) and has been~~
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6 ~~considered closed to public access from each point at which~~
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15 ~~PUBLICATION CONCERNING SUCH LICENSES OR PERMITS, IN~~
16 ~~CONDENSED FORM, THE PROVISIONS OF THIS SECTION CONCERNING~~
17 ~~ENTRY ON PRIVATE LAND. THE DEPARTMENT SHALL USE PUBLIC~~
18 ~~MEDIA, AS WELL AS ITS OWN PUBLICATIONS, IN ATTEMPTING TO~~
19 ~~EDUCATE AND INFORM OTHER RECREATIONAL USERS OF THE~~
20 ~~PROVISIONS OF THIS SECTION.~~

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