



1 unenclosed lands may have erected and maintained signs or placards  
2 legibly printed, easily discernible, conspicuously posted and  
3 reasonably spaced, or, alternatively, may mark the lands as set  
4 forth in section one, article three-b, chapter sixty-one of this  
5 code, so as to indicate the territory in which hunting, trapping or  
6 fishing is prohibited.

7       Any person who enters upon the unenclosed lands of another  
8 which have been lawfully posted, for the purpose of hunting,  
9 trapping or fishing, shall be guilty of a misdemeanor. The  
10 officers charged with the enforcement of the provisions of this  
11 chapter shall have the duty to enforce the provisions of this  
12 section if requested to do so by such owner, lessee, person or  
13 agent, but not otherwise.

14                   **CHAPTER 61. CRIMES AND THEIR PUNISHMENTS.**

15 **ARTICLE 3B. TRESPASS.**

16 **§61-3B-1. Definitions.**

17       As used in this article:

18       (1) "Structure" means any building of any kind, either  
19 temporary or permanent, which has a roof over it, together with the  
20 curtilage thereof.

21       (2) "Conveyance" means any motor vehicle, vessel, railroad  
22 car, railroad engine, trailer, aircraft or sleeping car, and "to

1 enter a conveyance" includes taking apart any portion of the  
2 conveyance.

3 (3) An act is committed "in the course of committing" if it  
4 occurs in an attempt to commit the offense or in flight after the  
5 attempt or commission.

6 (4) "Posted land" is that:

7 (a) Land, upon which reasonably maintained signs are placed not  
8 more than five hundred feet apart, along and at each corner of the  
9 boundaries of the land, upon which signs there appears, prominently  
10 in letters of not less than two inches in height, the words "no  
11 trespassing" and in addition thereto the name of the owner, lessee  
12 or occupant of the land or the boundaries shall be marked with a  
13 clearly visible painted marking consisting of two parallel lines  
14 each no less than two inches in width affixed to immovable,  
15 permanent objects which are not more than one hundred feet apart.  
16 The paint shall be red, orange or bright yellow in color. Signs  
17 adhering to the standards prescribed in this definition shall be  
18 posted at boundary gates. ~~The~~ These signs shall be placed along the  
19 boundary line of posted land in a manner and in a position as to be  
20 clearly noticeable from outside of the boundary line; and

21 (b) Land upon which the boundaries are marked with clearly  
22 visible painted markings, consisting of two parallel lines, each no

1 less than two inches in width, affixed to immovable, permanent  
2 objects and which are not more than one hundred feet apart. The  
3 paint shall be orange or bright yellow in color and shall be  
4 maintained so that the markings are reasonably visible from a  
5 distance of one hundred feet. Where boundaries are clearly marked  
6 with painted markings, signs, adhering to the standards prescribed  
7 in this definition for posted signs, shall also be posted at all  
8 roads, driveways or gates of entry onto the posted land.

9       It ~~shall not be~~ is not necessary to give notice by posting on  
10 any enclosed land or place not exceeding five acres in area on which  
11 there is a dwelling house or property that by its nature and use is  
12 obviously private in order to obtain the benefits of this article  
13 pertaining to trespass on enclosed lands.

14       (5) "Cultivated land" is that land which has been cleared of  
15 its natural vegetation and is presently planted with a crop,  
16 orchard, grove, pasture or trees or is fallow land as part of a crop  
17 rotation.

18       (6) "Fenced land" is that land which has been enclosed by a  
19 fence of substantial construction, whether with rails, logs, post  
20 and railing, iron, steel, barbed wire, other wire or other material,  
21 which stands at least three feet in height. For the purpose of  
22 this article, it shall not be necessary to fence any boundary or

1 part of a boundary of any land which is formed by water and is  
2 posted with signs pursuant to the provisions of this article.

3 (7) Where lands are posted, cultivated or fenced as described  
4 herein, then such lands, for the purpose of this article, shall be  
5 considered as enclosed and posted.

6 (8) "Trespass" under this article is the willful unauthorized  
7 entry upon, in or under the property of another, but shall not  
8 include the following:

9 (a) Entry by the state, its political subdivisions or by the  
10 officers, agencies or instrumentalities thereof as authorized and  
11 provided by law.

12 (b) The exercise of rights in, under or upon property by virtue  
13 of rights-of-way or easements by a public utility or other person  
14 owning such right-of-way or easement whether by written or  
15 prescriptive right.

16 (c) Permissive entry, whether written or oral, and entry from  
17 a public road by the established private ways to reach a residence  
18 for the purpose of seeking permission shall not be trespass unless  
19 signs are posted prohibiting such entry.

20 (d) Entry performed in the exercise of a property right under  
21 ownership of an interest in, under or upon such property.

22 (e) Entry where no physical damage is done to property in the

1 performance of surveying to ascertain property boundaries, and in  
2 the performance of necessary work of construction, maintenance and  
3 repair of a common property line fence, or buildings or  
4 appurtenances which are immediately adjacent to the property line  
5 and maintenance of which necessitates entry upon the adjoining  
6 owner's property.

NOTE: The purpose of this bill is to allow posting of real property by clearly visible paint markings in order to prohibit hunting or trespassing.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.