

## 716.7 Trespass defined.

1. The term "*property*" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

2. The term "*trespass*" shall mean one or more of the following acts:

*a.* Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, which is on or in the property by a person who is outside the property. This paragraph does not prohibit the unarmed pursuit of game or fur-bearing animals by a person who lawfully injured or killed the game or fur-bearing animal which comes to rest on or escapes to the property of another.

*b.* Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

*c.* Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

*d.* Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

*e.* Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering on to the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

3. The term "*trespass*" shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

4. The term "*trespass*" does not mean the entering upon the right-of-way of a public road or highway.

5. For purposes of this section, "*railway property*" means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.

For purposes of this section, "*railway corporation*" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.

6. This section shall not apply to the following persons:

*a.* Representatives of the state department of transportation, the federal railroad administration, or the

national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.

*b.* Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

*c.* Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.

[C51, § 2684; R60, § 4324; C73, § 3983; C97, § 4793, 4829; C24, 27, 31, 35, 39, § **13086, 13374**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, § 714.6, 729.1; C79, 81, § 716.7; 81 Acts, ch 205, § 1]

88 Acts, ch 1212, §1; 98 Acts, ch 1067, § 1, 2; 2007 Acts, ch 28, §20