House File 331 - Introduced

HOUSE FILE 331 BY WORTHAN

## A BILL FOR

- 1 An Act relating to criminal trespass and including
- 2 applicability provisions.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1966YH (2) 86 jh/rj 1 Section 1. Section 716.7, Code 2015, is amended by adding 2 the following new subsections:

3 <u>NEW SUBSECTION</u>. 4. A person has received notice to abstain
4 from entering or remaining upon or in property within the
5 meaning of subsection 2 if any of the following is applicable:
6 a. The person has been notified to abstain from entering or

7 remaining upon or in property personally, either orally or in 8 writing, including by a valid court order under chapter 236.

9 b. A printed or written notice forbidding such entry has
10 been conspicuously posted or exhibited at the main entrance to
11 the property or the forbidden part of the property.

12 c. Identifying purple marks or caps have been placed on 13 trees or posts around the area where entry is forbidden. Each 14 purple mark must be either of the following:

15 (1) A vertical line of at least eight inches in length and 16 the bottom of the mark must be no less than three feet and 17 no more than five feet above the ground. Such marks must be 18 placed no more than one hundred feet apart and must be readily 19 visible to any person approaching the property.

(2) A fence post capped or otherwise marked on at least the post's top two inches. The bottom of the cap or mark must be no less than three feet and no more than five feet, six inches above the ground. Posts so capped or marked must be placed no wore than thirty-six feet apart and must be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners, lessee, or others in lawful possession, all such owners, lessees, or others in lawful possession shall concur in the decision to apply a cap or mark to the fence.

31 <u>NEW SUBSECTION</u>. 5. Subsection 4 shall not be construed 32 to authorize an owner, lessee, or other person in lawful 33 possession of any property to place any purple marks or caps 34 on any tree or post or to install any post or fence if doing 35 so would violate any applicable law, rule, ordinance, order,

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1 covenant, bylaw, declaration, regulation, restriction, or 2 instrument.

Sec. 2. DISSEMINATION OF INFORMATION REGARDING MARKING 3 4 PROCEDURES. The departments of agriculture and land 5 stewardship and natural resources shall conduct an information 6 campaign for the public concerning the implementation and 7 interpretation of section 716.7, subsection 4, paragraph 8 "c". The information shall inform the public about the 9 marking requirements, including information regarding the size 10 requirements of the markings as well as the manner in which ll the markings must be placed. The departments of agriculture 12 and land stewardship and natural resources shall also include 13 information that, prior to January 1, 2017, any owner, lessee, 14 or other person in lawful possession who chooses to place 15 purple markings or caps on such person's property, must also 16 comply with one of the other notice requirements listed in 17 section 716.7, subsection 4. The departments of agriculture 18 and land stewardship and natural resources may prepare a 19 brochure, disseminate the information through agency internet 20 sites, or collaborate with nongovernmental organizations to 21 assist in the dissemination of the information.

Sec. 3. APPLICABILITY. Section 716.7, subsection 4, 23 paragraph "c", as enacted in this Act, applies only to acts 24 which occur on or after January 1, 2017.

EXPLANATION

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The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

28 This bill relates to notice to persons that entry in or 29 on real estate is trespassing and provides an applicability 30 provision.

31 Under current law, criminal trespass includes entering or 32 remaining upon or in property without justification after being 33 notified or requested to abstain from entering or to vacate the 34 property.

35 The bill provides that a person has received notice to

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1 abstain from entering or to vacate the property if the person 2 has been notified to abstain from entering or remaining upon or 3 in property personally, either orally or in writing, including 4 by a valid court order under Code chapter 236 (domestic abuse); 5 if a printed or written notice forbidding such entry has been 6 conspicuously posted or exhibited at the main entrance to 7 the property or the forbidden part of the property; or if 8 identifying purple marks or caps have been placed on trees 9 or posts around the area where entry is forbidden. The bill 10 specifies the requirements for using purple marks or caps on 11 trees or posts, including the size, location, and placement of 12 the purple marks or caps.

13 The bill provides that placing purple marks or caps on trees 14 or posts does not constitute notice until January 1, 2017. 15 Entering a property so marked or capped after that date could 16 result in a criminal trespass charge.

17 The bill does not authorize an owner, lessee, or other person 18 in lawful possession of any property to place any purple marks 19 or caps on any tree or post or to install any post or fence if 20 doing so would violate any applicable law, rule, ordinance, 21 order, covenant, bylaw, declaration, regulation, restriction, 22 or instrument.

The bill directs the departments of agriculture and land stewardship and natural resources to inform the general public of the purple marking requirements, including information regarding the size requirements of the markings as well as the manner in which the markings must be placed. The bill provides that the departments of agriculture and land stewardship and natural resources may prepare a brochure, disseminate the information through agency internet sites, or collaborate with nongovernmental organizations to help disseminate the information.

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