

**Senate File 2002 - Introduced**

SENATE FILE 2002

BY CHAPMAN

**A BILL FOR**

1 An Act relating to purple marks or caps on top of trees or  
2 posts to indicate that unlawful entry constitutes criminal  
3 trespass and making penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 716.7, subsection 2, paragraph a,  
2 subparagraph (2), Code 2018, is amended by adding the following  
3 new subparagraph division:

4 NEW SUBPARAGRAPH DIVISION. (c) (i) Identifying purple  
5 marks or caps have been placed on trees or posts around the  
6 area where entry is forbidden. Each purple mark must be either  
7 of the following:

8 (A) A vertical line on a tree of at least eight inches in  
9 length and the bottom of the mark must be no less than three  
10 feet and no more than five feet above the ground. Such marks  
11 must be placed no more than one hundred feet apart and must be  
12 readily visible to any person approaching the property.

13 (B) A fence post capped or otherwise marked on at least the  
14 post's top two inches. The bottom of the cap or mark must be  
15 no less than three feet and no more than five feet, six inches  
16 above the ground. Posts so capped or marked must be placed no  
17 more than thirty-six feet apart and must be readily visible  
18 to any person approaching the property. Prior to applying  
19 a cap or mark which is visible from and could reasonably be  
20 construed to apply to property on both sides of a fence shared  
21 by different property owners, lessees, or others in lawful  
22 possession, all such owners, lessees, or others in lawful  
23 possession shall concur in the decision to apply a cap or mark  
24 to the fence.

25 (ii) (A) This subparagraph division (c) shall not be  
26 construed to authorize an owner, lessee, or other person in  
27 lawful possession of any property to place any purple marks or  
28 caps on any tree or post or to install any post or fence if  
29 doing so would violate any applicable law, rule, ordinance,  
30 order, covenant, bylaw, declaration, regulation, restriction,  
31 or instrument.

32 (B) This subparagraph division (c) does not apply to real  
33 property located in a city with a population of more than sixty  
34 thousand.

35 (C) This subparagraph division (c) does not apply to the

1 persons described in section 716.7, subsection 3, paragraphs  
2 "a" through "e".

3 (D) Prior to July 1, 2019, notice provided by the method  
4 described in this subparagraph division (c) is not valid or  
5 enforceable. This subparagraph part is repealed July 1, 2023.

6 Sec. 2. DISSEMINATION OF INFORMATION REGARDING MARKING  
7 PROCEDURES. The departments of agriculture and land  
8 stewardship and natural resources shall conduct an information  
9 campaign for the public concerning the implementation and  
10 interpretation of section 716.7, subsection 2, paragraph  
11 "a", subparagraph (2), subparagraph division (c). The  
12 information provided shall inform the public about the  
13 marking requirements, including information regarding the  
14 size requirements of the markings as well as the manner  
15 in which the markings must be placed. The departments of  
16 agriculture and land stewardship and natural resources shall  
17 also include information in the campaign that, prior to  
18 July 1, 2019, any owner, lessee, or other person in lawful  
19 possession who chooses to place purple markings or caps on  
20 such person's property, must comply with one of the other  
21 notice requirements listed in section 716.7, subsection 2,  
22 paragraph "a", subparagraph (2), to meet the definition of  
23 trespass. The departments of agriculture and land stewardship  
24 and natural resources may prepare a brochure, disseminate the  
25 information through agency internet sites, or collaborate with  
26 nongovernmental organizations to assist in the dissemination  
27 of the information.

28 EXPLANATION

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

31 This bill relates to notice that entry in or on property is  
32 trespassing.

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

1 the property. Current notification methods include personal  
2 notice, orally or in writing, and posting a printed or written  
3 notice.

4 The bill establishes a new method for property owners,  
5 lessees, and other lawful possessors to provide notice  
6 that entry onto the property without permission constitutes  
7 criminal trespass. Specifically, proposed new Code section  
8 716.7(2)(a)(2)(c) indicates that purple marks or caps on trees  
9 or posts around an area serves as notice that entry without  
10 permission into that area constitutes criminal trespass. This  
11 new method of notification of trespass is an independent  
12 alternative to preexisting, codified methods of notification  
13 in Code section 716.7(2)(a)(2).

14 The bill does not apply to certain employees entering onto  
15 property to perform certain work. The persons defined in Code  
16 section 716.7(3)(a)-(e) do not commit trespass when they enter  
17 upon such property to perform defined work.

18 The bill specifies the size requirements of the marks and  
19 caps and when they may be used. Marks and caps shall not be  
20 used and posts shall not be installed if doing so would violate  
21 any law or lawful agreement. Additionally, this method shall  
22 not be used in a city with a population greater than 60,000.

23 The marks on trees must consist of at least an eight-inch  
24 vertical line that is above the ground at between three feet  
25 and five feet. Additionally, the marks must be no more than  
26 100 feet apart and they must be readily visible to a person  
27 approaching the property.

28 Purple caps on fence posts must meet the following  
29 requirements. The fence posts must be no more than 36 feet  
30 apart and readily visible to a person approaching the property.  
31 The cap or mark must be on the top two inches of the post. The  
32 bottom of the cap must be between three feet and five feet,  
33 six inches above the ground. Before putting a cap or mark on  
34 a post that is visible from both sides and could reasonably  
35 be construed to apply to property where another side is on

1 property that is owned, leased, or lawfully possessed by  
2 someone else, the property owner must obtain agreement by that  
3 other person.

4 The new method of providing notification applies on July  
5 1, 2019. Prior to that date, property owners must use the  
6 methods currently provided for in the Code to place potential  
7 trespassers on notice.

8 Prior to the applicability date of the purple marking notice  
9 method, the departments of agriculture and land stewardship  
10 and natural resources shall conduct an information campaign on  
11 the method, how it is defined in the Code, and how it is to  
12 be interpreted and implemented. The departments may prepare  
13 a brochure, place information on agency internet sites, or  
14 collaborate with nongovernmental organizations to disseminate  
15 the information.

16 The different levels of penalties provided for trespass  
17 that are set forth in Code sections 716.8, 481A.134, and  
18 481A.135 are applicable to a trespass committed pursuant to the  
19 provisions of the bill.