

Senate File 449 - Introduced

SENATE FILE 449
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 288)

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 2019, 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.

2 (D) This subparagraph division (c) does not apply to public
3 utility property.

4 (E) Prior to July 1, 2020, notice provided by the method
5 described in this subparagraph division (c) is not valid or
6 enforceable. This subparagraph part is repealed July 1, 2024.

7 Sec. 2. DISSEMINATION OF INFORMATION REGARDING MARKING
8 PROCEDURES. The departments of agriculture and land
9 stewardship and natural resources shall conduct an information
10 campaign for the public concerning the implementation and
11 interpretation of section 716.7, subsection 2, paragraph
12 "a", subparagraph (2), subparagraph division (c). The
13 information provided shall inform the public about the
14 marking requirements, including information regarding the
15 size requirements of the markings as well as the manner
16 in which the markings must be placed. The departments of
17 agriculture and land stewardship and natural resources shall
18 also include information in the campaign that, prior to
19 July 1, 2020, any owner, lessee, or other person in lawful
20 possession who chooses to place purple markings or caps on
21 such person's property, must comply with one of the other
22 notice requirements listed in section 716.7, subsection 2,
23 paragraph "a", subparagraph (2), to meet the definition of
24 trespass. The departments of agriculture and land stewardship
25 and natural resources may prepare a brochure, disseminate the
26 information through agency internet sites, or collaborate with
27 nongovernmental organizations to assist in the dissemination
28 of the information.

29

EXPLANATION

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

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

34 Under current law, criminal trespass includes entering or
35 remaining upon or in property without justification after being

1 notified or requested to abstain from entering or to vacate
2 the property. Current notification methods include personal
3 notice, orally or in writing, and posting a printed or written
4 notice.

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

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

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

25 The marks on trees must consist of at least an eight-inch
26 vertical line that is above the ground at between three feet
27 and five feet. Additionally, the marks must be no more than
28 100 feet apart and they must be readily visible to a person
29 approaching the property.

30 Purple caps on fence posts must meet the following
31 requirements. The fence posts must be no more than 36 feet
32 apart and readily visible to a person approaching the property.
33 The cap or mark must be on the top two inches of the post. The
34 bottom of the cap must be between three feet and five feet,
35 six inches above the ground. Before putting a cap or mark on

1 a post that is visible from both sides and could reasonably
2 be construed to apply to property where another side is on
3 property that is owned, leased, or lawfully possessed by
4 someone else, the property owner must obtain agreement by that
5 other person.

6 The new method of providing notification applies on July
7 1, 2020. Prior to that date, property owners must use the
8 methods currently provided for in the Code to place potential
9 trespassers on notice.

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

18 The different levels of penalties provided for trespass
19 that are set forth in Code sections 716.8, 481A.134, and
20 481A.135 are applicable to a trespass committed pursuant to the
21 provisions of the bill.