

# HB1216



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1216

by Rep. John D. Cavaletto

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/21-3

from Ch. 38, par. 21-3

Amends the Criminal Code of 2012. Exempts from a violation of criminal trespass to real property a person who enters the land of another for the purpose of retrieving a dog used for hunting purposes if the person enters the land on foot and without a firearm and after retrieving the dog, the person immediately leaves the land of the other person. Effective immediately.

LRB098 04142 RLC 34165 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing  
5 Section 21-3 as follows:

6 (720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

7 Sec. 21-3. Criminal trespass to real property.

8 (a) A person commits criminal trespass to real property  
9 when he or she:

10 (1) knowingly and without lawful authority enters or  
11 remains within or on a building;

12 (2) enters upon the land of another, after receiving,  
13 prior to the entry, notice from the owner or occupant that  
14 the entry is forbidden;

15 (3) remains upon the land of another, after receiving  
16 notice from the owner or occupant to depart;

17 (3.5) presents false documents or falsely represents  
18 his or her identity orally to the owner or occupant of a  
19 building or land in order to obtain permission from the  
20 owner or occupant to enter or remain in the building or on  
21 the land; or

22 (4) enters a field used or capable of being used for  
23 growing crops, an enclosed area containing livestock, an

1 agricultural building containing livestock, or an orchard  
2 in or on a motor vehicle (including an off-road vehicle,  
3 motorcycle, moped, or any other powered two-wheel vehicle)  
4 after receiving, prior to the entry, notice from the owner  
5 or occupant that the entry is forbidden or remains upon or  
6 in the area after receiving notice from the owner or  
7 occupant to depart.

8 For purposes of item (1) of this subsection, this Section  
9 shall not apply to being in a building which is open to the  
10 public while the building is open to the public during its  
11 normal hours of operation; nor shall this Section apply to a  
12 person who enters a public building under the reasonable belief  
13 that the building is still open to the public.

14 (b) A person has received notice from the owner or occupant  
15 within the meaning of Subsection (a) if he or she has been  
16 notified personally, either orally or in writing including a  
17 valid court order as defined by subsection (7) of Section  
18 112A-3 of the Code of Criminal Procedure of 1963 granting  
19 remedy (2) of subsection (b) of Section 112A-14 of that Code,  
20 or if a printed or written notice forbidding such entry has  
21 been conspicuously posted or exhibited at the main entrance to  
22 the land or the forbidden part thereof.

23 (b-5) Subject to the provisions of subsection (b-10), as an  
24 alternative to the posting of real property as set forth in  
25 subsection (b), the owner or lessee of any real property may  
26 post the property by placing identifying purple marks on trees

1 or posts around the area to be posted. Each purple mark shall  
2 be:

3 (1) A vertical line of at least 8 inches in length and  
4 the bottom of the mark shall be no less than 3 feet nor  
5 more than 5 feet high. Such marks shall be placed no more  
6 than 100 feet apart and shall be readily visible to any  
7 person approaching the property; or

8 (2) A post capped or otherwise marked on at least its  
9 top 2 inches. The bottom of the cap or mark shall be not  
10 less than 3 feet but not more than 5 feet 6 inches high.  
11 Posts so marked shall be placed not more than 36 feet apart  
12 and shall be readily visible to any person approaching the  
13 property. Prior to applying a cap or mark which is visible  
14 from both sides of a fence shared by different property  
15 owners or lessees, all such owners or lessees shall concur  
16 in the decision to post their own property.

17 Nothing in this subsection (b-5) shall be construed to  
18 authorize the owner or lessee of any real property to place any  
19 purple marks on any tree or post or to install any post or  
20 fence if doing so would violate any applicable law, rule,  
21 ordinance, order, covenant, bylaw, declaration, regulation,  
22 restriction, contract, or instrument.

23 (b-10) Any owner or lessee who marks his or her real  
24 property using the method described in subsection (b-5) must  
25 also provide notice as described in subsection (b) of this  
26 Section. The public of this State shall be informed of the

1 provisions of subsection (b-5) of this Section by the Illinois  
2 Department of Agriculture and the Illinois Department of  
3 Natural Resources. These Departments shall conduct an  
4 information campaign for the general public concerning the  
5 interpretation and implementation of subsection (b-5). The  
6 information shall inform the public about the marking  
7 requirements and the applicability of subsection (b-5)  
8 including information regarding the size requirements of the  
9 markings as well as the manner in which the markings shall be  
10 displayed. The Departments shall also include information  
11 regarding the requirement that, until the date this subsection  
12 becomes inoperative, any owner or lessee who chooses to mark  
13 his or her property using paint, must also comply with one of  
14 the notice requirements listed in subsection (b). The  
15 Departments may prepare a brochure or may disseminate the  
16 information through agency websites. Non-governmental  
17 organizations including, but not limited to, the Illinois  
18 Forestry Association, Illinois Tree Farm and the Walnut Council  
19 may help to disseminate the information regarding the  
20 requirements and applicability of subsection (b-5) based on  
21 materials provided by the Departments. This subsection (b-10)  
22 is inoperative on and after January 1, 2013.

23 (b-15) Subsections (b-5) and (b-10) do not apply to real  
24 property located in a municipality of over 2,000,000  
25 inhabitants.

26 (c) This Section does not apply to any person, whether a

1 migrant worker or otherwise, living on the land with permission  
2 of the owner or of his or her agent having apparent authority  
3 to hire workers on this land and assign them living quarters or  
4 a place of accommodations for living thereon, nor to anyone  
5 living on the land at the request of, or by occupancy, leasing  
6 or other agreement or arrangement with the owner or his or her  
7 agent, nor to anyone invited by the migrant worker or other  
8 person so living on the land to visit him or her at the place he  
9 is so living upon the land.

10 (d) A person shall be exempt from prosecution under this  
11 Section if he or she beautifies unoccupied and abandoned  
12 residential and industrial properties located within any  
13 municipality. For the purpose of this subsection, "unoccupied  
14 and abandoned residential and industrial property" means any  
15 real estate (1) in which the taxes have not been paid for a  
16 period of at least 2 years; and (2) which has been left  
17 unoccupied and abandoned for a period of at least one year; and  
18 "beautifies" means to landscape, clean up litter, or to repair  
19 dilapidated conditions on or to board up windows and doors.

20 (e) No person shall be liable in any civil action for money  
21 damages to the owner of unoccupied and abandoned residential  
22 and industrial property which that person beautifies pursuant  
23 to subsection (d) of this Section.

24 (f) This Section does not prohibit a person from entering a  
25 building or upon the land of another for emergency purposes.  
26 For purposes of this subsection (f), "emergency" means a

1 condition or circumstance in which an individual is or is  
2 reasonably believed by the person to be in imminent danger of  
3 serious bodily harm or in which property is or is reasonably  
4 believed to be in imminent danger of damage or destruction.

5 (g) Paragraph (3.5) of subsection (a) does not apply to a  
6 peace officer or other official of a unit of government who  
7 enters a building or land in the performance of his or her  
8 official duties.

9 (g-1) This Section does not prohibit a person from entering  
10 the land of another for the purpose of retrieving a dog used  
11 for hunting purposes if the person enters the land on foot and  
12 without a firearm and after retrieving the dog, the person  
13 immediately leaves the land of the other person.

14 (h) Sentence. A violation of subdivision (a) (1), (a) (2),  
15 (a) (3), or (a) (3.5) is a Class B misdemeanor. A violation of  
16 subdivision (a) (4) is a Class A misdemeanor.

17 (i) Civil liability. A person may be liable in any civil  
18 action for money damages to the owner of the land he or she  
19 entered upon with a motor vehicle as prohibited under paragraph  
20 (4) of subsection (a) of this Section. A person may also be  
21 liable to the owner for court costs and reasonable attorney's  
22 fees. The measure of damages shall be: (i) the actual damages,  
23 but not less than \$250, if the vehicle is operated in a nature  
24 preserve or registered area as defined in Sections 3.11 and  
25 3.14 of the Illinois Natural Areas Preservation Act; (ii) twice  
26 the actual damages if the owner has previously notified the

1 person to cease trespassing; or (iii) in any other case, the  
2 actual damages, but not less than \$50. If the person operating  
3 the vehicle is under the age of 16, the owner of the vehicle  
4 and the parent or legal guardian of the minor are jointly and  
5 severally liable. For the purposes of this subsection (i):

6 "Land" includes, but is not limited to, land used for  
7 crop land, fallow land, orchard, pasture, feed lot, timber  
8 land, prairie land, mine spoil nature preserves and  
9 registered areas. "Land" does not include driveways or  
10 private roadways upon which the owner allows the public to  
11 drive.

12 "Owner" means the person who has the right to  
13 possession of the land, including the owner, operator or  
14 tenant.

15 "Vehicle" has the same meaning as provided under  
16 Section 1-217 of the Illinois Vehicle Code.

17 (j) This Section does not apply to the following persons  
18 while serving process:

19 (1) a person authorized to serve process under Section  
20 2-202 of the Code of Civil Procedure; or

21 (2) a special process server appointed by the circuit  
22 court.

23 (Source: P.A. 97-184, eff. 7-22-11; 97-477, eff. 8-22-11;  
24 97-813, eff. 7-13-12; 97-1108, eff. 1-1-13.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.