



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/5/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

720 ILCS 5/21-3

from Ch. 38, par. 21-3

Amends the Criminal Code of 1961. Provides that a person may not operate an all-terrain vehicle on land without the permission of the owner of the land. Provides that a violation is a Class B misdemeanor. Provides that the owner of the land may recover damages in a civil action against the trespasser. Provides that the court shall award the owner specified damages. Provides that the trespasser shall also be liable for court costs and the owner's reasonable attorneys fees.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 1961 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) Whoever:

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

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

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

16 (4) enters upon one of the following areas in or on a
17 motor vehicle (including an off-road vehicle, motorcycle,
18 moped, or any other powered two-wheel vehicle), after
19 receiving prior to that entry, notice from the owner or
20 occupant that the entry is forbidden or remains upon or in
21 the area after receiving notice from the owner or occupant
22 to depart:

23 (A) any field that is used for growing crops or
24 which is capable of being used for growing crops; or

25 (B) an enclosed area containing livestock; or

26 (C) or an orchard; or

27 (D) a barn or other agricultural building
28 containing livestock;

29 commits a Class B misdemeanor.

30 For purposes of item (1) of this subsection, this Section
31 shall not apply to being in a building which is open to the
32 public while the building is open to the public during its

1 normal hours of operation; nor shall this Section apply to a
2 person who enters a public building under the reasonable belief
3 that the building is still open to the public.

4 (b) A person has received notice from the owner or occupant
5 within the meaning of Subsection (a) if he has been notified
6 personally, either orally or in writing including a valid court
7 order as defined by subsection (7) of Section 112A-3 of the
8 Code of Criminal Procedure of 1963 granting remedy (2) of
9 subsection (b) of Section 112A-14 of that Code, or if a printed
10 or written notice forbidding such entry has been conspicuously
11 posted or exhibited at the main entrance to such land or the
12 forbidden part thereof.

13 (c) This Section does not apply to any person, whether a
14 migrant worker or otherwise, living on the land with permission
15 of the owner or of his agent having apparent authority to hire
16 workers on such land and assign them living quarters or a place
17 of accommodations for living thereon, nor to anyone living on
18 such land at the request of, or by occupancy, leasing or other
19 agreement or arrangement with the owner or his agent, nor to
20 anyone invited by such migrant worker or other person so living
21 on such land to visit him at the place he is so living upon the
22 land.

23 (d) A person shall be exempt from prosecution under this
24 Section if he beautifies unoccupied and abandoned residential
25 and industrial properties located within any municipality. For
26 the purpose of this subsection, "unoccupied and abandoned
27 residential and industrial property" means any real estate (1)
28 in which the taxes have not been paid for a period of at least 2
29 years; and (2) which has been left unoccupied and abandoned for
30 a period of at least one year; and "beautifies" means to
31 landscape, clean up litter, or to repair dilapidated conditions
32 on or to board up windows and doors.

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

1 (f) This Section does not prohibit a person from entering a
2 building or upon the land of another for emergency purposes.
3 For purposes of this subsection (f), "emergency" means a
4 condition or circumstance in which an individual is or is
5 reasonably believed by the person to be in imminent danger of
6 serious bodily harm or in which property is or is reasonably
7 believed to be in imminent danger of damage or destruction.

8 (g) Trespass with an all-terrain vehicle.

9 (1) A person may not operate an all-terrain vehicle on
10 land without the permission of the owner of the land. A
11 violation of this subsection (g) is a Class B misdemeanor.

12 (2) The owner of the land may recover damages in a
13 civil action against the trespasser. The court shall award
14 the owner the damages specified in this subsection (g). The
15 trespasser shall also be liable for court costs and the
16 owner's reasonable attorneys fees.

17 (3) The measure of damages shall be:

18 (A) The actual damages, but not less than \$500: (i)
19 if the all-terrain vehicle is operated in a nature
20 preserve area as defined in Section 3.11 of the
21 Illinois Natural Areas Preservation Act, or (ii) if the
22 owner has posted signs prohibiting entry by
23 all-terrain vehicles; or

24 (B) Three times the actual damages, but not less
25 than \$5000, if the owner has previously notified the
26 trespasser to cease trespassing; or

27 (C) Otherwise, the trespasser shall be liable for
28 actual damages, but not less than \$50.

29 (4) If the person operating the all-terrain vehicle is
30 a minor, the owner of the vehicle, and the parents and
31 legal guardians of the minor are jointly and severally
32 liable.

33 (5) Payment of the damages under this subsection (g) is
34 a defense to a criminal charge of trespass under this
35 Section, and to a charge of illegal operation of an
36 all-terrain vehicle in a nature preserve area under

1 subsection (c) of Section 11-1427 of the Illinois
2 Vehicle Code, and to all other civil actions for
3 trespass. Payment does not otherwise absolve the
4 operator of the all-terrain vehicle from compliance
5 with laws and regulations governing the operation of
6 those vehicle.

7 (6) Any not for profit organization may enforce the
8 prohibition of this subsection (g) as the owner. Any
9 not for profit organization devoted to protecting
10 land, plant life or wildlife may also enter into an
11 agreement to enforce the prohibition of this
12 subsection (g) on behalf of another owner. Collection
13 of damages, costs and attorneys fees shall be deemed to
14 be consistent with such organization's not for profit
15 status. If the attorney is an employee of such not for
16 profit organization, the amount of attorneys fees
17 shall be based on the usual and customary fees charged
18 by attorneys engaged in small claims collections in the
19 county in which the action is brought.

20 (7) The term "all-terrain vehicle" is as defined in
21 Section 1-101.8 of the Illinois Vehicle Code.

22 (Source: P.A. 89-346, eff. 1-1-96; 89-373, eff. 1-1-96; 89-626,
23 eff. 8-9-96; 90-419, eff. 8-15-97.)