

2020 Regular Session

SENATE BILL NO. 320

BY SENATOR ALLAIN

TRESPASS. Allows the occupant of a watercraft traveling on state waters and engaged in any lawful activity to remain on those waters unless forbidden to do so by the owner. (8/1/20)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 14:63(J) and (J)(2)(b) and to enact

3 R.S. 14:63(E)(8) and (J)(3), relative to criminal trespass; to provide that the owner

4 or occupant of a watercraft may enter or remain on waters of the state while engaged

5 in lawful activity unless affirmatively prohibited from doing so by posted notice; to

6 provide relative to penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 14:63(J) and (J)(2)(b) are hereby

9 amended and reenacted and R.S. 14:63(E)(8) and (J)(3) are hereby enacted to read as

10 follows:

11 §63. Criminal trespass

12 * * *

13 E. The following persons may enter or remain upon the structure, watercraft,

14 movable or immovable property, of another:

15 * * *

16 **(8) The owner or occupant of a watercraft or vessel traveling on any**

17 **waters of the state who is engaged in any lawful activity, unless notice is**

1 provided that the owner or occupant of a watercraft or vessel is forbidden to
 2 enter or remain by the owner or other person with authority to prohibit or limit
 3 access to the waters. For purposes of this Paragraph, "waters of the state"
 4 means all surface waters within the state that are subject to the ebb and flow of
 5 the tide. "Waters of the state" does not include any landlocked lake, farm pond,
 6 private lake or pond, or any other nonnavigable water body that is entirely
 7 enclosed and not connected to a navigable water body. Notice pursuant to this
 8 Paragraph shall be indicated in any manner provided for such notice by
 9 Subsection J of this Section.

10 * * *

11 J. Although not required by this Section, except as provided in Paragraph
 12 (8) of Subsection E of this Section, notice that entrance upon any structure,
 13 watercraft, movable, or immovable property owned by another is prohibited may be
 14 indicated by either of the following:

15 * * *

16 (2) The placement of identifying purple paint marks on the trees or posts on
 17 the property, provided that such marks are:

18 * * *

19 (b) Placed so that the bottom of the mark is not less than three feet from the
 20 ground nor more than five feet from the ground or other surface.

21 * * *

22 (3) Any theft of or damage to a sign or marker provided for in this
 23 Subsection shall be punishable pursuant to R.S. 14:55, 56, or 67, or other
 24 provision of law, as applicable.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 320 Original 2020 Regular Session Allain

Present law provides relative to criminal trespass. Present law provides that no person can enter any structure, watercraft, or movable owned by another without express, legal, or implied authorization. Present law further provides that no person can enter upon immovable

property owned by another without express, legal, or implied authorization. Present law further provides that no person can remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

Proposed law retains present law.

Present law provides that the following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

- (1) A duly commissioned law enforcement officer in the performance of his duties.
- (2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the La. Dept. of Agriculture and Forestry engaged in locating and suppressing a fire.
- (3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.
- (4) Any federal, state, or local government employee, public utility employee, or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.
- (5) Any federal, state, or local government employee, public utility employee, or agent in the performance of his duties when otherwise authorized by present law to enter or remain on immovable or movable property.
- (6) Any person authorized by a court of law to enter or remain on immovable property.
- (7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

Proposed law retains present law and adds that the following to the list of persons who may enter or remain:

- (8) The owner or occupant of a watercraft or vessel traveling on any waters of the state who is engaged in any lawful activity, unless notice is provided that the owner or occupant of a watercraft or vessel is forbidden to enter or remain by the owner or other person with authority to prohibit or limit access to the waters.

Proposed law provides that for purposes of proposed law, "waters of the state" means all surface waters within the state that are subject to the ebb and flow of the tide, but "waters of the state" does not include any landlocked lake, farm pond, private lake or pond, or any other nonnavigable water body that is entirely enclosed and not connected to a navigable water body. Proposed law further provides that notice pursuant to proposed law is to be indicated in any manner provided for such notice by present law relative to signs and purple paint.

Present law provides that notice that entrance upon any structure, watercraft, movable or immovable property owned by another is prohibited may be indicated by either of the following:

- (1) A sign or signs posted on or in the property at a place or places where such sign or signs may be reasonably expected to be seen.
- (2) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:
 - (a) Vertical lines of not less than 18 inches in length and not less than one inch

in width.

- (b) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.
- (c) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in present law, or 1,000 feet apart on land other than forest land.

Proposed law retains present law and adds that the required distance of purple paint marks is from the ground "or other surface".

Proposed law provides that any theft of or damage to a sign or marker provided for in present law and proposed law is punishable pursuant to present law relative to aggravated criminal damage to property, simple criminal damage to property, theft, or any other applicable provision of present law.

Effective August 1, 2020.

(Amends R.S. 14:63(J)(intro para) and (J)(2)(b); adds R.S. 14:63(E)(8) and (J)(3))