

2020 Regular Session

SENATE BILL NO. 479

BY SENATOR FRED MILLS

TRESPASS. Provides for an affirmative defense to the crime of trespass when engaged in commercial trespass. (8/1/20)

AN ACT

To amend and reenact R.S. 14:63(D), relative to trespass; to provide relative to the crime of trespass; to provide for an affirmative defense to the crime when engaged in certain activity; to provide terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:63(D) is hereby amended and reenacted to read as follows:

§63. Criminal trespass

* * *

D.(1) It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

(2) It shall be an affirmative defense to a prosecution for a violation of Subsection B of this Section that the accused was engaged in commercial fishing while upon any river, stream, canal, bayou, bay, lake, or other waters, that are navigable in fact. For the purposes of this Paragraph, "navigable in fact" shall mean that the waters are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are

- 1 **or may be conducted in the customary modes of trade and travel on water, and**
2 **the waters constitute navigable waters of the United States.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Tyler S. McCloud.

	DIGEST	
SB 479 Original	2020 Regular Session	Fred Mills

Present law prohibits any person from entering upon immovable property owned by another without express, legal, or implied authorization.

Proposed law creates an affirmative defense to prosecution when the accused was engaged in commercial fishing while upon any river, stream, canal, bayou, bay, lake, or any waters that are navigable in fact.

Proposed law defines "navigable in fact" as waters that are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water and the waters constitute navigable waters of the United States.

Effective August 1, 2020.

(Amends R.S. 14:63(D))