

SURVEYOR AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John G. Mathis

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~H→~~ [~~prohibits, in certain circumstances, the prosecution of a county surveyor or a professional land surveyor for criminal trespass.~~] provides a defense to criminal trespass that the person is a professional surveyor or county surveyor. ~~←H~~

Highlighted Provisions:

This bill:

▶ defines terms;

▶ ~~H→~~ [~~prohibits, in certain circumstances, the prosecution of a county surveyor or a professional land surveyor for criminal trespass~~] provides a defense to criminal trespass that the person is a professional surveyor or county surveyor ~~←H~~ ; and

▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-206, as last amended by Laws of Utah 2006, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-206** is amended to read:

76-6-206. Criminal trespass.



28 (1) As used in this section, "enter" means intrusion of the entire body.

29 (2) A person is guilty of criminal trespass if, under circumstances not amounting to
30 burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section
31 76-10-2402 regarding commercial terrorism:

32 (a) ~~[he]~~ the person enters or remains unlawfully on property and:

33 (i) intends to cause annoyance or injury to any person or damage to any property,
34 including the use of graffiti as defined in Section 76-6-107;

35 (ii) intends to commit any crime, other than theft or a felony; or

36 (iii) is reckless as to whether ~~[his]~~ the person's presence will cause fear for the safety of
37 another;

38 (b) knowing ~~[his]~~ the person's entry or presence is unlawful, ~~[he]~~ the person enters or
39 remains on property as to which notice against entering is given by:

40 (i) personal communication to the actor by the owner or someone with apparent
41 authority to act for the owner;

42 (ii) fencing or other enclosure obviously designed to exclude intruders; or

43 (iii) posting of signs reasonably likely to come to the attention of intruders; or

44 (c) ~~[he]~~ the person enters a condominium unit in violation of Subsection 57-8-7(7).

45 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was
46 committed in a dwelling, in which event it is a class A misdemeanor.

47 (b) A violation of Subsection (2)(c) is an infraction.

48 (4) ~~H→~~ **(a) As used in this Subsection (4):**

48a **(i) "Professional land surveying or the practice of land surveying" is as defined**
48b **in Section 58-22-102.**

48c **(ii) "Professional land surveyor" is as defined in Section 58-22-102.**

48d **(iii) "Surveyor" means a professional land surveyor and a county surveyor.**

48e **(b) ←H** It is a defense to prosecution under this section that:

49 ~~H→~~ **[(a)] (i)(A) ←H** the property was open to the public when the actor entered or remained; and

50 ~~H→~~ **[(b)] (B) ←H** the actor's conduct did not substantially interfere with the owner's use of the
51 property ~~H→~~ **[-] ; or**

51a **(ii)(A) the actor:**

51b **(I) is a surveyor or a designee of the surveyor engaged in professional**
51c **land surveying or the practice of land surveying; or**

51d **(II) in the case of a county surveyor or designee of the county surveyor, is**
51e **acting under the scope of authority under Title 17, Chapter 23, County Surveyor; and**

51f (B) the actor's conduct did not substantially interfere with the owner's use of the
51g property.

52 ~~[(5) (a) As used in this Subsection (5):~~

53 ~~—— (i) "Professional land surveying or the practice of land surveying" is as defined in~~
54 ~~Section 58-22-102.~~

55 ~~—— (ii) "Professional land surveyor" is as defined in Section 58-22-102.~~

56 ~~—— (iii) "Surveyor" means a professional land surveyor and a county surveyor.~~

57 ~~—— (b) A surveyor does not commit criminal trespass if when the surveyor enters and~~
58 ~~remains on the property, the surveyor:] ←H~~

59 ~~H→ [(i) (A) is engaged in professional land surveying or the practice of land surveying; or~~
60 ~~—— (B) in the case of a county surveyor or a designee of the county surveyor, is acting~~
61 ~~under the scope of authority under Title 17, Chapter 23, County Surveyor; and~~
62 ~~—— (ii) is not acting in violation of this section.] ←H~~

Legislative Review Note
as of 1-28-10 10:20 AM

Office of Legislative Research and General Counsel

H.B. 122 - Surveyor Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
