

ESB 5048 - H COMM AMD
By Committee on Judiciary

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.52.010 and 2011 c 336 s 369 are each reenacted and
4 amended to read as follows:

5 The following definitions apply in this chapter:

6 (1) "Access" means to approach, instruct, communicate with, store
7 data in, retrieve data from, or otherwise make use of any resources of
8 a computer, directly or by electronic means.

9 (2) "Computer program" means an ordered set of data representing
10 coded instructions or statements that when executed by a computer cause
11 the computer to process data.

12 (3) "Data" means a representation of information, knowledge, facts,
13 concepts, or instructions that are being prepared or have been prepared
14 in a formalized manner and are intended for use in a computer.

15 (4) "Enter." The word "enter" when constituting an element or part
16 of a crime, shall include the entrance of the person, or the insertion
17 of any part of his or her body, or any instrument or weapon held in his
18 or her hand and used or intended to be used to threaten or intimidate
19 a person or to detach or remove property.

20 (5) "Enters or remains unlawfully." A person "enters or remains
21 unlawfully" in or upon premises when he or she is not then licensed,
22 invited, or otherwise privileged to so enter or remain.

23 A license or privilege to enter or remain in a building which is
24 only partly open to the public is not a license or privilege to enter
25 or remain in that part of a building which is not open to the public.
26 A person who enters or remains upon unimproved and apparently unused
27 land, which is neither fenced nor otherwise enclosed in a manner
28 designed to exclude intruders, does so with license and privilege
29 unless notice against trespass is personally communicated to him or her
30 by the owner of the land or some other authorized person, or unless

1 notice is given by posting in a conspicuous manner. Land that is used
2 for commercial aquaculture or for growing an agricultural crop or
3 crops, other than timber, is not unimproved and apparently unused land
4 if a crop or any other sign of cultivation is clearly visible or if
5 notice is given by posting in a conspicuous manner. Similarly, a field
6 fenced in any manner is not unimproved and apparently unused land. A
7 license or privilege to enter or remain on improved and apparently used
8 land that is open to the public at particular times, which is neither
9 fenced nor otherwise enclosed in a manner to exclude intruders, is not
10 a license or privilege to enter or remain on the land at other times if
11 notice of prohibited times of entry is posted in a conspicuous manner.

12 (6) "Posting in a conspicuous manner" includes posting a sign or
13 signs reasonably likely to come to the attention of intruders,
14 indicating that entry is restricted or the placement of identifying
15 fluorescent orange paint marks on trees or posts on property.

16 (a) Identifying fluorescent orange marks must be:

17 (i) Vertical lines not less than eight inches in length and not
18 less than one inch in width;

19 (ii) Placed so that the bottom of the mark is between three and
20 five feet from the ground; and

21 (iii) Placed at locations that are readily visible to any person
22 approaching the property and no more than one hundred feet apart on
23 forest land, as defined in RCW 76.09.020, or one thousand feet apart on
24 land other than forest land.

25 (b) A landowner must use signs for posting in a conspicuous manner
26 on access roads.

27 (c) A landowner may use fluorescent orange paint marks to provide
28 notice against trespass only on farm and agricultural land, as defined
29 in RCW 84.34.020(2) (a), (b), and (d), and forest land, as defined in
30 RCW 76.09.020.

31 (7) "Premises" includes any building, dwelling, structure used for
32 commercial aquaculture, or any real property."

33 Correct the title.

EFFECT: Limits the use of orange paint marks as notice against

trespass to: "Agricultural land," as per some of the definitions for purposes of the chapter on open space lands; and "forest land" as defined for purposes of the chapter on forest practices.

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