

---

## Judiciary Committee

---

### HB 2353

**Title:** An act relating to actions for trespass upon a business owner's premises.

**Brief Description:** Concerning actions for trespass upon a business owner's premises.

**Sponsors:** Representatives Rodne and Haler.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Creates a cause of action for trespass for a business owner against a person who enters or remains unlawfully upon the business owner's premises.</li></ul>
---



**Hearing Date:** 1/23/14

**Staff:** Edie Adams (786-7180).

**Background:**

Under the common law, trespass is an intrusion onto the property of another that interferes with the other person's right to exclusive possession of the property. A person is liable for trespass, even if no damage is caused, if the person, without a privilege to do so, intentionally (a) enters land in the possession of the another, or causes a thing or a third person to do so, or (b) remains on the land, or (c) fails to remove from the land a thing which he is under a duty to remove.

Statutory trespass actions have been established that authorize treble damages in certain cases. When a person willfully trespasses on another's land and injures or removes trees, timber, or shrubs, the owner of the land may bring an action for treble damages. A person who wrongfully causes waste or injury to personal property or improvements on another person's land is liable to the injured party for treble damages. The person acts "wrongfully" if the person intentionally and unreasonably commits the act while knowing that he or she lacks authority to act. In addition to treble damages, the person must pay the injured party's reasonable costs and attorney fees.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under the criminal laws, a person may be guilty of criminal trespass if he or she knowingly enters or remains unlawfully in a building or in or upon the premises of another. A person "enters or remains unlawfully" in or upon premises when the person is not then licensed, invited, or otherwise privileged to enter in or remain upon the premises.

**Summary of Bill:**

A business owner has a cause of action for trespass against a person who enters or remains unlawfully upon the business owner's premises. The business owner may recover actual damages, or may elect to recover liquidated damages of \$2,500 without proof of special damages. In addition, the business owner is entitled to recover reasonable attorneys' fees and legal expenses.

A person alleged to have trespassed who prevails in the action may recover attorneys' fees only if the action is frivolous and advanced without reasonable cause.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.