

SB 5233 - H COMM AMD
By Committee on Judiciary

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
4 and 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
8 of 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
11 cause the computer to process data.

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

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

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

24 A license or privilege to enter or remain in a building which is
25 only partly open to the public is not a license or privilege to enter
26 or remain in that part of a building which is not open to the public.
27 A person who enters or remains upon unimproved and apparently unused
28 land, which is neither fenced, gated, nor otherwise enclosed in a
29 manner designed to exclude intruders, does so with license and
30 privilege unless notice against trespass is personally communicated
31 to him or her by the owner of the land or some other authorized
32 person, or unless notice is given by posting in a conspicuous manner.
33 Land that is used for commercial aquaculture or for growing an
34 agricultural crop or crops, other than timber, is not unimproved and

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

10 (6) "Posting in a conspicuous manner" may include: Posting a sign
11 or signs reasonably likely to come to the attention of intruders,
12 indicating that entry is restricted; if the property is located
13 outside of urban growth areas and incorporated cities or towns, the
14 placement of identifying fluorescent orange paint marks on trees or
15 posts on property; or a combination of signs and identifying
16 fluorescent orange paint marks.

17 (a) Identifying fluorescent orange paint marks must be:

18 (i) Vertical lines approximately twelve inches in length and not
19 less than one inch in width;

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

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

26 (b) Identifying fluorescent orange paint marks alone may not be
27 used for posting in a conspicuous manner on a road or driveway
28 approved by the owner for motorized access where vehicles can enter
29 the property.

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

32 NEW SECTION. Sec. 2. The department of fish and wildlife, the
33 department of natural resources, and the state parks and recreation
34 commission are encouraged to use their web sites and appropriate
35 publications to inform the public that as of July 1, 2016, vertical
36 orange marks on trees or posts may indicate a private boundary line
37 and that crossing that line without first securing the owner's
38 permission could constitute trespassing.

1 NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1,
2 2016."

3 Correct the title.

EFFECT: The striking amendment retains the provisions of the underlying bill with the following changes:

(1) Provides that a license to be on unimproved and apparently unused land, absent notice against trespass, does not apply to land that is gated (in addition to land that is fenced or otherwise enclosed to exclude intruders).

(2) Adds that a combination of signs and paint marks may be used to post in a conspicuous manner.

(3) Modifies the length of the orange paint marks that may be used to post in a conspicuous manner, from at least eight inches to approximately twelve inches.

(4) Replaces the requirement that a landowner use signage to post in a conspicuous manner on access roads with language stating that paint marks alone cannot be used on a road or driveway approved by the owner for motorized access where vehicles can enter the property.

(5) Delays the effective date until July 1, 2016.

(6) Encourages the department of fish and wildlife, the department of natural resources, and the state parks and recreation commission to use their web sites and publications to inform the public about the meaning of vertical orange paint marks.

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