
Judiciary Committee

HB 1104

Title: An act relating to unlawful entry onto private property.

Brief Description: Concerning unlawful entry onto private property.

Sponsors: Representatives Taylor, Shea, Short, McCaslin, Condotta, Pike, Holy and Buys.

Brief Summary of Bill

- Creates three new crimes: (1) trespass to unlawfully collect resource data; (2) unlawfully collecting resource data; and (3) trespass to access adjacent or proximate land.
- Requires state and local government entities that are in possession of unlawfully collected resource data to destroy that resource data.

Hearing Date: 1/24/17

Staff: Audrey Frey (786-7289).

Background:

A person is guilty of criminal trespass if he or she knowingly enters or remains unlawfully in or upon the premises of another. Trespass into a building is a gross misdemeanor, while all other trespasses are misdemeanors.

Entering or remaining on property is not unlawful if the person is licensed, invited, or otherwise privileged to enter or remain. A person has a license and privilege to enter or remain on any unimproved and apparently unused land if the land is not fenced and notice is not posted or communicated to the person.

State law provides various public officials with authority to enter onto premises, buildings, or other properties in performance of certain official duties, such as inspecting records, protecting persons or property on the premises, and ensuring that activities and conditions on the premises

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are in compliance with the law. Some statutes specifically state that entry onto private property by an authorized public official in performance of his or her duties does not constitute a trespass. Certain statutes require that an official seek consent of the owner or an administrative search or inspection warrant before entering premises to perform official duties, while others statutes, such as those that authorize unannounced inspections of certain facilities, specify that entry may be without prior notification or the consent of the owner if certain conditions are met. Some statutes further provide that it is a misdemeanor to prevent an authorized public official who is performing his or her duties from entering private property.

Summary of Bill:

Three new crimes involving collection of resource data are created: (1) trespass to unlawfully collect resource data; (2) unlawfully collecting resource data; and (3) trespass to access adjacent or proximate land.

Definitions.

"Collect" means to take a sample of material; to acquire, gather, photograph, or otherwise preserve information in any form; or to record the legal description or geographical coordinates of a location.

"Resource data" is defined as data relating to land or land use, including but not limited to, data regarding agriculture, minerals, geology, history, cultural artifacts, archaeology, air, water, soil, conservation, habitat, vegetation, or animal species. Resource data does not include the following: (1) data used for surveying to determine property boundaries or location of survey monuments; (2) data used by a state or local government entity to assess property values; or (3) data collected or intended to be collected by a peace officer while engaged in the lawful performance of his or her official duties.

"Peace officer" means a general or limited authority Washington peace officer.

Crimes relating to collection of resource data.

Trespass to unlawfully collect resource data. A person is guilty of trespass to unlawfully collect resource data if he or she: (1) enters onto private land for the purpose of collecting resource data; and (2) does not have (a) an ownership interest in the real property, (b) statutory, contractual, or other legal authorization to enter the private land to collect the specified resource data, or (c) written or verbal permission of the owner, lessee, or agent of the owner to enter the private land to collect the specified resource data.

Unlawfully collecting resource data. A person is guilty of unlawfully collecting resource data if he or she enters onto private land and collects resource data without: (a) an ownership interest in the real property; (b) statutory, contractual, or other legal authorization to enter the private land to collect the specified resource data; or (c) written or verbal permission of the owner, lessee, or agent of the owner to enter the private land to collect the specified resource data.

Trespass to access adjacent or proximate land. A person is guilty of trespass to access adjacent or proximate land if he or she: (1) crosses private land to access adjacent or proximate land where he or she collects resource data; and (2) does not have (a) an ownership interest in the real

property, (b) statutory, contractual, or other legal authorization to cross the private land, or (c) written or verbal permission of the owner, lessee, or agent of the owner to cross the private land.

The first violation of each of these crimes is a misdemeanor and subsequent violations are gross misdemeanors. A person who commits multiple violations of these crimes may be prosecuted and punished for each violation separately.

Other provisions.

Unlawfully collected resource data is not admissible as evidence in any civil, criminal, or administrative proceeding, other than a prosecution for a violation of the act or a civil action against the violator.

State and local government entities must destroy unlawfully collected resource data in their possession and remove it from all files and databases.

Unlawfully collected resource data cannot be considered in determining any agency action.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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