



POWER Communication

Policy Outreach with Effective Results

POLICY AND ISSUE DISCUSSION SHEET

Trespassing – Landowner Issues and Concerns

Defining the Issue

Ohio law defines a trespasser as a person who enters someone's property without being authorized or invited by the landowner, occupant or person who has control over the property. Even when the situation looks sinister, so long as the person is not attempting to commit any offense outside of their trespass, immediate removal options could be limited.

One way landowners, tenants and caretakers can protect their property from trespassers is by giving notice. While not required, posting "no trespassing" signs that a reasonable person could see and understand they are unlawfully on property is an accepted practice. Once trespassers are discovered and identified, providing direct verbal notification that access is forbidden, as well as written notice describing the incident and reminding the person that revisiting the location in the future is not granted, are prudent steps, too.

It is always best to involve law enforcement to assist in removing trespassers, or dealing with repeated trespassing. Ohioans cannot legally perform a "citizen's arrest" for a trespasser, and taking other measures like creating traps, limiting egress once trespassers are discovered still on the property, pointing a firearm or firing a warning shot could lead to legal troubles for the landowner themselves.

Trespassing incidents can be either minor or menacing – While many public and law enforcement officials err on the side of seeing most initial incidents as accidental or minor, how can a landowner or tenant address repeated infractions? How can you prevent others from accessing the location to further serious criminal activity and/or cause malicious damage to personal property?

OFBF Policy

We support:

- Legislation to increase criminal penalties and establish a mandatory fine and full restitution of property damaged by individuals found guilty of trespassing and unauthorized activities.
- Legislation to clearly spell out landowners' rights as they relate to trespassers and provide landowners immunity from civil liability in connection with injury, death or loss to trespassers.

- Local law enforcement prosecution of trespassers
- Legislation that may provide for seizure of implements used in trespass, such as all-terrain vehicles, snowmobiles and vehicles and for an allowance of the collection of damages that would be multiplied for remuneration.
- Legislation that strengthens “attractive nuisance laws” so as not to put landowners at risk for unreasonable lawsuits.
- When performing a boundary survey, the surveyor should be able to enter adjacent private property as long as written notice is provided to adjacent landowners at least two days in advance and the surveyor pays for any damages caused on the adjacent properties.
- Legislation prohibiting the use of Unmanned Aerial Vehicles (UAVs) over private property without the property owner’s permission especially in the scenario where the UAV is intending to survey or gather data.
- Legislation establishing the use of purple paint to mark land boundaries as an additional mechanism that will give notice to potential trespassers for purposes of appropriate trespass enforcement.

Discussion Questions

1. Have any of your community council members had to address trespassing issues on their property? Were the incidents minor or required further attention? What steps have you had to take to personally address trespassing incidents? Do most trespassing incidents in your neighborhood involve infractions from persons living in the local community, or were they from other areas?
2. If trespassers drive recreational vehicles or employ Unmanned Aerial Vehicles (UAVs and drones) on or over the property, should landowners have the right to seek possession of the equipment if property damages caused by the trespasser require a cash settlement?
3. Some trespassers cause substantial damage to crops, livestock, buildings or equipment while on the property. Do law enforcement and judges understand the value of damaged farm infrastructure? Are outreach programs needed to show these officials that compensation and penalties should more closely reflect the extent of damages and repair? What suggestions do you have for county Farm Bureau leadership when they have the opportunity to discuss these issues with local government leaders during policy development?
4. It is often difficult for local law enforcement and prosecutors to prosecute trespassing charges criminally, due to evidence, resources and staffing limitations. Landowners can also pursue trespassing charges civilly through private lawsuits, but that can often be expensive in comparison to any possible recovery. What options might exist to either increase criminal investigation or ease the cost of civil suits in situations of trespassing?