

1 H.728

2 Introduced by Representative Goodnow of Brattleboro

3 Referred to Committee on

4 Date:

5 Subject: Crimes; trespass; common areas

6 Statement of purpose of bill as introduced: This bill proposes to allow the

7 landlord of a dwelling unit to obtain a no trespass order prohibiting the tenant's

8 invitees or licensees from entering the dwelling unit or the dwelling unit's

9 common areas if the tenant consents to the order or if the invitee or licensee

10 subject to the order has violated the terms of the lease agreement.

11 An act relating to trespass in common areas

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. PURPOSE

14 The purpose of this act is to overrule the Vermont Supreme Court's

15 decision in *State v. Dixon*, 169 Vt. 15 (1999), and allow the landlord of a

16 dwelling unit to obtain a no trespass order prohibiting the tenant's invitees or

17 licensees from entering the dwelling unit's common areas if the invitee or

18 licensee subject to the order has violated the terms of the lease agreement.

1 Sec. 2. 13 V.S.A. § 3705 is amended to read:

2 § 3705. UNLAWFUL TRESPASS

3 (a)(1) A person shall be imprisoned for not more than three months or fined  
4 not more than \$500.00, or both, if, without legal authority or the consent of the  
5 person in lawful possession, the person enters or remains on any land or in any  
6 place as to which notice against trespass is given by:

7 (A) actual communication by the person in lawful possession or the  
8 person's agent or by a law enforcement officer acting on behalf of such person  
9 or the person's agent;

10 (B) signs or placards so designed and situated as to give reasonable  
11 notice; or

12 (C) in the case of abandoned property:  
13 (i) signs or placards, posted by the owner, the owner's agent, or a  
14 law enforcement officer, and so designed and situated as to give reasonable  
15 notice; or  
16 (ii) actual communication by a law enforcement officer.

17 \* \* \*

18 (d) A person who enters a building other than a residence, whose access is  
19 normally locked, whether or not the access is actually locked, or a residence in  
20 violation of an order of any court of competent jurisdiction in this State shall

1 be imprisoned for not more than one year or fined not more than \$500.00, or  
2 both.

3 (e) A person who enters a dwelling house, whether or not a person is  
4 actually present, knowing that the person is not licensed or privileged to do so  
5 shall be imprisoned for not more than three years or fined not more than  
6 \$2,000.00, or both.

7 \* \* \*

8 (g)(1) Notwithstanding subsection (a) of this section or any provision of  
9 law to the contrary, a landlord of a dwelling unit may cause to be served an  
10 order against trespass that prohibits a tenant's invitees or licensees from  
11 trespassing in the dwelling unit or any of the dwelling unit's common areas if:

12 (A) the tenant responsible for the invitee or licensee consents to the  
13 order;

14 (B) the invitee or licensee subject to the order has violated the terms  
15 of the dwelling unit's lease agreement; or

16 (C) the invitee or licensee has violated a State or federal law while on  
17 the premises of the dwelling unit.

18 (2) Notwithstanding any other provision of law, a person who is served  
19 an order against trespass issued pursuant to subdivision (1) of this subsection  
20 has a limited right to appeal the order by bringing a small claims action against  
21 the landlord under 12 V.S.A. chapter 187 within seven days after the order is

1        served. The decision of the court in the small claims action shall be final and  
2        not subject to appeal.

3            (3) As used in this subsection:

4            (A) “Dwelling unit” means a building or the part of a building that is  
5        used as a home, residence, or sleeping place by one or more persons who  
6        maintain a household.

7            (B) “Tenant” means a person entitled under a rental agreement to  
8        occupy a residential dwelling unit to the exclusion of others.

9        Sec. 3. EFFECTIVE DATE

10        This act shall take effect on passage.