

4:17-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 4:17-2

(Trespassing-agricultural or horticultural lands--minimum penalties)

LAWS OF: 1983

CHAPTER: 521

Bill No: A2141

Sponsor(s): Marsella and others

Date Introduced: November 23, 1982

Committee: Assembly: Agriculture and Environment

Senate: Natural Resources and Agriculture

Amended during passage: Yes

Amendments during passage denoted by asterisks

Date of Passage:

Assembly: March 14, 1983

Senate: December 12, 1983

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: Yes

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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**ASSEMBLY, No. 2141**

**STATE OF NEW JERSEY**

INTRODUCED NOVEMBER 23, 1982

By Assemblymen MARSELLA, RILEY, PELLY, JANISZEWSKI,  
GORMAN, MATTHEWS and ZIMMER

AN ACT concerning trespass on agricultural or horticultural lands,  
amending R. S. 4:17-2, and repealing R. S. 4:17-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 4:17-2 is amended to read as follows:

2 4:17-2. **[A person who shall trespass upon the cultivated lands**  
3 **of another within this State after being forbidden so to do by the**  
4 **owner, occupant, lessee or licensee thereof, or after public notice**  
5 **given as provided in this section on the part of the owner, occupant,**  
6 **lessee or licensee of the lands forbidding such trespass, shall be**  
7 **subject to a fine of not more than twenty dollars (\$20.00) and**  
8 **costs, and the county district courts and the municipal courts shall**  
9 **have jurisdiction to try such offenders and pronounce sentence as**  
10 **provided in this article.**

11 The notice shall bear the name of the owner, occupant, lessee or  
12 licensee of the lands, and be posted conspicuously on the corners  
13 of the property or along the roads or highways abutting the prop-  
14 erty, on all boundary lines bordering on adjoining lands and at each  
15 point where a stream enters upon or leaves the property.] *Any*  
16 *person who trespasses upon the agricultural or horticultural lands*  
17 *of another\*\** **[\*, regardless of whether public notice is posted,\*]\*\*** *is*  
18 *liable to a penalty of not less than \$100.00, to be collected in a civil*  
19 *action by a summary proceeding under "the penalty enforcement*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted February 14, 1983.**

**\*\*—Senate committee amendments adopted June 23, 1983.**

20 law" (N. J. S. 2A:58-1 et seq.). The Superior Court and county  
 21 district court shall have jurisdiction to enforce the "penalty enforce-  
 22 ment law." If the violation is of a continuing nature, each day dur-  
 23 ing which it continues constitutes an additional, separate and dis-  
 24 tinct offense. As used in this act, "agricultural or horticultural  
 25 lands" means lands devoted to the production for sale of plants and  
 26 animals useful to man, encompassing plowed or tilled fields, stand-  
 27 ing crops or their residues, **\*\*cranberry\*\*** bogs **\*\*and appurtenant**  
 28 dams, dikes, canals, ditches and pump houses, including impound-  
 29 ments, man-made reservoirs and the adjacent shorelines thereto**\*\***,  
 30 orchards, **\*\*nurseries\*\*** and lands with a maintained fence for the  
 31 purpose of restraining domestic livestock. **\*\*[\***This section shall  
 32 not apply to a person in possession of a valid hunting, fishing or  
 33 trapping license engaged in an activity authorized by one of these  
 34 licenses.**]\*\*\*** **\*\*"Agricultural or horticultural lands" shall also in-**  
 35 **clude lands in agricultural use, as defined in section 3 of P. L. 1983,**  
 36 **c. 32 (C. 4:1C-13) where public notice prohibiting trespass is given**  
 37 **by actual communication to the actor, conspicuous posting, or fenc-**  
 38 **ing or other enclosure manifestly designed to exclude intruders.**  
 39 **Nothing in this act shall relieve owners of agricultural or horti-**  
 40 **cultural lands from the obligation to provide conspicuous posting**  
 41 **prohibiting trespass on the waters or banks along or around any**  
 42 **waters listed for stocking with fish in the current fish code adopted**  
 43 **pursuant to section 32 of P. L. 1948, c. 448 (C. 13:1B-30) before a**  
 44 **trespass violation may be found.\*\***

1 2. R. S. 4:17-1 is repealed.

1 3. This act shall take effect immediately.

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22 nature, each day during which it continues constitutes an addi-  
23 tional, separate and distinct offense. As used in this act, "agri-  
24 cultural or horticultural lands" means lands devoted to the produc-  
25 tion for sale of plants and animals useful to man, encompassing  
26 plowed or tilled fields, standing crops or their residues, bogs,  
27 orchards, and lands with a maintained fence for the purpose of  
28 restraining domestic livestock.

1 2. R. S. 4:17-1 is repealed.

1 3. This act shall take effect immediately.

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STATEMENT

This measure would impose a minimum penalty of \$100.00 on any person who trespasses on agricultural or horticultural lands. This act would also remove the requirement that the owner, occupant, lessee or licensee give an oral notice or post a public notice before a trespassing violation may be found.

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ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2141**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 14, 1983

This bill would impose a minimum penalty on any person who trespasses on agricultural or horticultural lands. It would also remove the requirements that the owner or operator of the farm give oral notice or post public notice before a trespassing violation may be found.

It is the implicit assumption of this bill that certain agricultural and horticultural land with standing crops or tilled fields supplies the public with a visual cue that the land is privately owned and, thus, that unauthorized entrance is prohibited.

The Assembly Agriculture and Environment Committee amended the bill to state specifically that the land need not be posted. It further amended the bill to exempt hunters, fishermen, and trappers.

SENATE NATURAL RESOURCES AND AGRICULTURE  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 2141**

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with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 23, 1983

This bill would impose a minimum penalty on any person who trespasses on agricultural or horticultural lands.

It is the implicit assumption of this bill that certain types of agricultural and horticultural land supplies the public with a visual clue that the land is privately owned and, thus, that unauthorized entrance is prohibited. The types of land which fit this description in the bill as amended by the committee are plowed or tilled fields, standing crops or their residues, cranberry bogs and appurtenant dams, dikes, canals, ditches and pump houses, including manmade impoundments and reservoirs, and the adjacent shorelines thereto, orchards, nurseries, and lands with a maintained fence for the purpose of restraining domestic livestock. All other types of agricultural land, which includes such areas as forest and woodlands, are not easily recognized as farm property. Public notice would, therefore, be required before a trespassing violation on this land may be found.

The committee amended the bill to remove the exemption for hunters, fishermen, and trappers, but added a provision which would require owners of agricultural or horticultural lands to provide conspicuous posting prohibiting trespass on the waters or banks along or around any waters listed for stocking with fish in the current fish code before a trespass violation may be found.

FISCAL NOTE TO  
**ASSEMBLY. No. 2141**

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**STATE OF NEW JERSEY**

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DATED: NOVEMBER 7, 1983

Senate Reprint of Assembly Bill No. 2141 Official Copy Reprint established liability to a penalty of not less than \$100.00 on any person who trespasses upon the agricultural or horticultural lands of another. The current penalty is not more than \$20.00 and costs.

The Department of Agriculture indicates there is no fiscal impact on that or any other executive department of State Government.

The Office of Legislative Services notes that penalties collected under the provision of the bill would be paid to the State Treasurer. The total amount, however, would be entirely dependent on the number of cases upon which a judgment is rendered.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1980, c. 67.