

STATE OF NEW YORK

2165

2025-2026 Regular Sessions

IN ASSEMBLY

January 15, 2025

Introduced by M. of A. MANKTELOW, ANGELINO, DeSTEFANO, GALLAHAN, HAWLEY, MILLER, PALMESANO, SAYEGH, SMULLEN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to posting private property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 5 of section 140.00 of the penal law, as
2 amended by chapter 698 of the laws of 1979, is amended to read as
3 follows:

4 5. "Enter or remain unlawfully." (a) A person "enters or remains
5 unlawfully" in or upon premises when ~~[he]~~ such person is not licensed or
6 privileged to do so. A person who, regardless of ~~[his]~~ such person's
7 intent, enters or remains in or upon premises which are at the time open
8 to the public does so with license and privilege unless ~~[he]~~ such person
9 defies a lawful order not to enter or remain, personally communicated to
10 ~~[him]~~ them by the owner of such premises or other authorized person. A
11 license or privilege to enter or remain in a building which is only
12 partly open to the public is not a license or privilege to enter or
13 remain in that part of the building which is not open to the public. A
14 person who enters or remains upon unimproved and apparently unused land,
15 which is neither fenced nor otherwise enclosed in a manner designed to
16 exclude intruders, does so with license and privilege unless notice
17 against trespass is personally communicated to ~~[him]~~ such person by the
18 owner of such land or other authorized person, or unless ~~such~~ notice is
19 given by posting in a conspicuous manner. A person who enters or remains
20 in or about a school building without written permission from someone
21 authorized to issue such permission or without a legitimate reason which
22 includes a relationship involving custody of or responsibility for a
23 pupil or student enrolled in the school or without legitimate business
24 or a purpose relating to the operation of the school does so without
25 license and privilege.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

LBD03653-01-5

1 (b) An owner or lessee of any real property may post such property by
2 placing identifying purple marks on trees or posts around the area to be
3 posted. Each purple mark shall be: (i) a vertical line of at least eight
4 inches in length and the bottom of the mark shall be no less than three
5 feet nor more than five feet high. Such marks shall be placed no more
6 than one hundred feet apart and shall be readily visible to any person
7 approaching the property; or (ii) a post capped or otherwise marked on
8 at least its top two inches. The bottom of the cap or mark shall be not
9 less than three feet but not more than five feet six inches high. Posts
10 so marked shall be placed not more than thirty-six feet apart and shall
11 be readily visible to any person approaching the property. Prior to
12 applying a cap or mark which is visible from both sides of a fence
13 shared by different property owners or lessees, all such owners or
14 lessees shall concur in the decision to post their own property. Nothing
15 in this subdivision shall be construed to authorize the owner or lessee
16 of any real property to place any purple marks on any tree or post or to
17 install any post or fence if doing so would violate any applicable law,
18 rule, ordinance, order, covenant, bylaw, declaration, regulation,
19 restriction, contract, or instrument.

20 § 2. The department of agriculture and markets shall conduct a public
21 information campaign concerning the provisions of this act. Such depart-
22 ment may prepare a brochure or disseminate the information through the
23 agency website. Such information shall include the requirements set
24 forth in paragraph (b) of subdivision 5 of section 140.00 of the penal
25 law, including information regarding the size requirements of the mark-
26 ings as well as the manner in which the markings shall be displayed.

27 § 3. This act shall take effect on the one hundred twentieth day after
28 it shall have become a law.