

NSPS
Right of Entry
Committee Report
SEPTEMBER 2006



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RIGHT OF ENTRY COMPOSITE LAW

COMMITTEE COMMENTS: The following is a composite of all the laws across the United States relative to Right of Entry. The intent here is *NOT* to create a model law, but to show the most common portions of Right of Entry Laws across the United States.

SECTION 1. PREAMBLE

Any entry by a surveyor under this act shall not constitute criminal or civil trespass nor shall the surveyor be liable to damages, fine, detention, summons, arrest, or civil action by reason of the entry.

SECTION 2. DEFINITIONS:

As used in this act, “surveyor” means any of the following:

- (1) A employee of the government of the United States of America or this state involved in locating boundaries or surveying operations on behalf of the government.
- (2) A person who is registered or licensed to practice land surveying.
- (3) A person who is employed by or under the supervision of a person under subdivision (a) or (b) of this section.¹

SECTION 3. RIGHT OF ENTRY: Right of entry allowed; landowner consent not required; conditions allowing entry.

When performing surveying services² at the request of a landowner or person with an interest in real estate,³ a surveyor, without the consent of the owner or person in possession,⁴ upon notification, can enter upon or cross any lands necessary to perform surveying services.⁵

SECTION 4 NOTIFICATION: Timely and reasonable efforts at notification required; content; form.

The committee could not reach consensus on the issue of prior notice, save that of stating that reasonable notice will be given to the property owners.

SECTION 5. IDENTIFICATION: Identification required; contents; form.

The surveyor shall carry identification and shall display this identification to anyone requesting identification.

Sufficient identification shall include but not be limited to one of the following:

- A registration card issued by the appropriate licensing board containing the name and license number of the surveyor.

¹ The law must allow for those exceptions in licensing such as out of state surveyors that may be allowed to survey in the state for a limited period of time. It should not attach the label of “surveyor” to a government employee that may not be licensed in that state. It should also look at the services meant to be protected versus the title of the person since the title may change between states or in the future (e.g., geomatics engineer)

² This prevents surveyors from entering property as a citizen hunting or fishing.

³ This section clarifies that surveyors can still enter property even though they are performing a survey for an easement holder or on behalf of a developer with a purchase option.

⁴ This is the main feature and makes it clear that not just landowners but tenants, adverse possessors, etc. cannot prevent the surveyor from entering the property.

⁵ The important part of this section is to make it clear that it is not just the immediate neighbor’s land that can be crossed.

- A statement signed by the employer identifying the employer and containing the employee's name and position, the name of the supervising surveyor, the supervising surveyor's signature, and supervising surveyor's professional seal imprint or seal facsimile.
- A statement issued by the appropriate government department responsible for surveying activities; listing the government agency and department; stating the employee's name, position, and supervisor; along with sufficient information allowing a landowner to contact the supervisor by mail, phone, or e-mail.

SECTION 6. DUTY OF CARE; LIABILITY: Owner or occupant of land; duty of care; limiting landowner liability.

The duty of care an owner or occupant owes to the surveyor is the same as that owed a trespasser.⁶

SECTION 7. BUILDING OR STRUCTURE ENTRY: No authority to enter building used as residence or for storage.

This act may not be construed to give a surveyor the authority to enter any building or structure used as a residence or for storage.

SECTION 8. LIABILITIES/DAMAGES

A. No authority to intentionally⁷ damage or move object. Nothing in this section may be construed as giving authority or license to a surveyor to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

B. Civil liability for actual damage. This act may not be construed to remove civil liability for actual damage to land, chattels, crops or personal property caused by the surveyor.

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⁶ The duty owed a trespasser is not to set traps or intentionally hurt the party. This is the lowest form of duty and provides the landowner great protection from injuries sustained by surveyors.

⁷ The word "intentional" means that a mistaken act will not remove the surveyor from the protection of the act.

COMMITTEE REPORT

RIGHT OF ENTRY ACTS VS TRESPASS ACTS

The committee performed all of its work via email. Work was accomplished from December 2005 through September 2006. The committee has acquired the state laws of all states with a Right of Entry Act and those states with a Trespass Act that has a Right of Entry Section for a Surveyor.

VOLATILITY OF TRESPASS AND RIGHT OF ENTRY IN STATES

There is continued interest in the work of this activity during its period of work, most notably for changes in trespass laws and right of entry acts in their states. It appears that several states are facing changes that will impact the Surveying profession. Preliminary copies of this report were requested by 11 states in the period that this report was prepared.

It is befitting that NSPS review and monitors the status of laws and their affects on the practice of surveying. Along with the topic of security in a post 9/11 era, Eminent Domain have added pressures on the protection of personal property rights with the adverse affects that are impacting the ability of the Surveying profession and ultimately the surveying professionals abilities to preserve property rights.

NSPS RIGHT OF ENTRY COMMITTEE RECOMMENDATIONS

While this report is included for the purpose and uses of individual states in their work for ensuring proper care in the institution of a Right of Entry Act in their states, it is not intended that this report is in fact a Model Law for Right of Entry. This report is prepared and formatted in an Adobe Acrobat Format with hyperlinks to enable the reader to view and use as a resource. The committee particularly commends the reader to review the efforts of [Michigan](#) as an interesting example of a law most supportive of the practice of Surveying, being short, concise, and protective of land owner's rights to damage and liability. It is the committee's recommendation, that the NSPS Board of Governors review and approve this Right of Entry Report as a resource for affiliates, expressly not as a model law, but as a report..

ACKNOWLEDGEMENT AND APPRECIATION

The committee members offering to serve for the Right of Entry Committee are as follows: Steven Douty, Michael Filipski, Charles E. Kutz, and Larry D. Reser. The committee wishes to extend its appreciation to **Dr. Knud E. Hermansen** whom has provided his experience as a licensed professional land surveyor and attorney at law in the development of this composite law. Dr Hermansen has also gone through the process in instituting Maine's Surveyors Right of Entry law. We also appreciate Dr. Hermansen allowing the inclusion of the following articles which served the committee well in formulating a composite law:

- Surveyor's Right of Entry Laws Article
- Comments on R.O.E.
- Maine Law with Comments

Other articles of Dr. Hermansen may be viewed at <http://www.umaine.edu/set/svt/Articles/index.html>

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COMMON PARTS OF STATE LAWS EXAMINED BY R.O.E. COMMITTEE

Sections or Common Parts found in a review of Trespass and Right of Entry Laws. Note that not all sections were included in the Composite law as it was felt it would encumber the prudent surveyor beyond what is reasonable. Hyperlinked States provided interesting sections.

- 1) **PREAMBLE** (Used to refer to existing trespass law or starting purpose of law.)
 - States reviewed include [CO](#), [NJ](#), [MT](#)
- 2) **DEFINITIONS** ()
 - States reviewed include [KY](#), [MI](#), [MS](#)
- 3) **RIGHT OF ENTRY** (The following section is the important part of the right of entry law. It must insure the surveyor and employees can cross any land for the purposes of performing any type of surveying services, without the landowner's permission.)
 - [ME](#)
- 4) **IDENTIFICATION** (Section 4 alleviates concerns of landowners that crooks and charlatans (e.g., lawyers and realtors) may be on their property under the guise of the authority of a surveyor)
 - [ME](#), [MI](#)
- 5) **NOTIFICATIONS**
 - [ME](#), [MI](#)
- 6) **OWNER DUTY OF CARE, LIABILITY**
 - [ME](#)
- 7) **BUILDING OR STRUCTURE ENTRY** (Section 3 relieves any concerns that the right of entry bill is an assault on the principle that a "man's home is his castle." It probably states the obvious since surveyors don't enter buildings anyway but not all legislatures think reasonably and realize the obvious)
 - [ME](#)
- 8) **LIABILITIES/DAMAGE/SAFETY** (The liabilities for damage to property, safety of personnel, and the liability of owner to surveyors and their employees on their property in the course of using right of entry)
 - [ME](#)

The following sections are NOT part of the composite law, but are examples where a particular jurisdiction placed more obligations in the Right of Entry Act.

- 9) **COURTESY PROPERTY NOTIFICATIONS** (only a couple of states added this section which may have been used as an inducement to get the ROE law passed the best are shown here for reference, the added burden of this section would not make it desirable.)
 - Adverse Possession [TN](#)
 - Located, Established, Or Reestablished Corners [MT](#)
- 11) **VEHICLE USE ON ENTRY** (It appeared that only one state had concerns about entry and the condition of the vehicles, it is suggested if such concerns arise to view that states law.) [MT](#)

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SURVEYOR'S RIGHT OF ENTRY LAWS

An article by Knud E. Hermansen

Knud is a licensed professional land surveyor, professional engineer, and attorney at law. He teaches at the University of Maine and has a consulting practice specializing in boundary disputes, title, land development, liability, and easements.

Approximately half the states have laws that permit surveyors in the performance of surveying services to enter upon lands without permission or legal consequences. These laws are known as right of entry laws. There is no common law right for surveyors to enter property to perform surveying services. Consequently, without statutory protection, surveyors may be liable for civil or criminal trespass if they enter onto property without permission. (Civil trespass is defined as the intentional invasion of land in possession of another.) Civil or criminal trespass could subject a surveyor to monetary damages, restitution, fines, or even jail.

Almost all states allow surveyors to enter private property without fear of legal reprisal if the surveyor is an employee of the government or doing surveying on behalf of the government or a government agency. For example, almost all states have right of entry laws for official surveys necessary to lay out public improvements. Many states allow surveyors to enter upon lands to perform topographic surveys or access a geodetic control station. (See e.g., Alabama Code § 9-4-13 & Idaho Code § 54-1230) Unfortunately, these laws do not help or protect surveyors performing private surveys. To aid surveyors performing private surveys, several states have enacted laws allowing surveyors the right to enter land to perform private surveying services.

The typical right of entry law for surveying services allows a surveyor and surveying assistants, during the performance of surveying services, to enter or cross lands without the consent of the owner or person in possession. An alternative form of the law does not give the surveyor permission to enter land; rather, the alternative law gives immunity to the surveyor and assistants from trespass. In other words, if the surveyor or assistants do trespass, they can't be prosecuted.

A careful examination of the right of entry law should be done before attempting to rely upon the law. The typical right of entry law does not provide comprehensive civil or criminal liability protection for all acts on property. Surveyors will be liable for damage to personal property. In other words, kicking an aggressive neighbor's dog or trimming a bush to enable the instrument person to see the prism could impose civil liability.

Entry on property is generally limited to methods and locations necessary to perform surveying services in a reasonable manner. Entering buildings to get out of the rain or fishing in the nearby stream during lunch break could constitute a trespass.

Many right of entry laws require surveyors to give reasonable notice, when possible, to the owner before entering their lands. (Regardless whether the law requires notice, it is courteous practice to do so.) Failure to provide reasonable notice could remove the protection afforded by the right of entry law. Those states with laws that have a notice provision generally do not require that the landowner actually receive notice, only that the surveyor make a reasonable attempt to provide notice. A letter sent to the address listed in the tax records would suffice for reasonable notice.

Laws that provide protection from trespass do not always protect the means or method of access. A surveyor in Wisconsin discovered this shortcoming in the Wisconsin law. The limitation in the Wisconsin law cost the surveyor over \$1,000 for driving in a restricted area when attempting to reach a section corner (Department of Natural Resources v. Bowden, 254 Wis.2d 625, 2002 WI.App 129, 647 N.W.2d 865).

If a surveyor is practicing in a state that has a right of entry law, the surveyor should become familiar with its provisions. For those surveyors practicing in states that do not have a right of entry law, consider advocating for one. Considerable relief is afforded by a right of entry law when a police officer shows up after a call from an irate neighbor or the surveyor is being threatened with a lawsuit for mental anguish and emotional distress after a surveying assistant crosses the complainant's property holding a machete and pointed prism pole.

Surveyor Right of Entry Laws by State

Alabama.....	AL ST § 11-7-11
Alaska	AS § 34.65.010 & 34.65.020
Arizona	A.R.S. § 33-104
Arkansas	A.C.A. §§ 17-48-303 & 17-48-204
California.....	West's Ann.Cal.Civ.Code §§ 8774 & 846.5
Colorado	C.R.S.A. § 18-4-515
Connecticut.....	C.G.S.A. § 52-557
Florida.....	F.S.A. § 472.029
Illinois	ILCS 225 § 330/45
Kentucky.....	KRS § 322.470
Louisiana.....	LSA-R.S. 14 § 63
Massachusetts	M.G.L.A. 266 § 120C
Michigan	M.C.L.A. §§ 54.122-54.124
Minnesota	M.S.A. § 505.31
Mississippi.....	Miss. Code Ann. § 73-13-103
Missouri	V.A.M.S. § 327.371
Montana.....	MCA 70-16-111
Nevada.....	N.R.S. § 625.335
New Jersey.....	N.J.S.A. §§ 45:8-44.1 & 45:8-44.2
New Mexico.....	NMSA § 61-23-30
Oklahoma.....	21 Okl.St. Ann. § 1835
Oregon	O.R.S. § 672.047
Tennessee.....	T. C. A. § 62-18-124
Texas.....	Vernon's Ann.Texas Civ.St. Art. § 5282c
Vermont	27 V.S.A. § 4
West Virginia.....	W. Va. Code, § 29-2-9
Wisconsin	W.S.A. § 59.73

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COMMENTS ON R.O.E.

BY DR. KNUD HERMANSEN

Comments concerning committee work from Dr. Hermansen

Having originally prepared the Maine right of entry law and watched the legislature do their worst, here are my comments:

A right of entry law has two overall goals: 1) to allow the surveyor to enter property without landowner's permission and 2) to dispel landowner's concerns. It is the second goal that often severely limits or reduces the effectiveness of a right of entry law.

Unfortunately, without the restrictions of the second part, the right of entry law will never get past the legislature or signed by the governor.

The tactical question that a state surveying society must address when seeking submission of the law is: 1) do they try to address all the concerns that the landowner may have in the bill itself (and thereby insuring the inclusion of the limitations in the final version) or 2) not include them and let the legislature add a few but no doubt thoroughly muck up the language (but omit some of the restrictions the surveyors would have included). Of course, the sponsoring state society can choose the first tactical option and the legislature will still add stupid parts and muck up the language of the other parts that were submitted.

Because NSPS is looking at a composite law, the question the committee should address is how far the committee needs to go to address the landowner's concerns in a bill that's sole goal is to protect the surveyor (i.e., tactical question 1 or 2). However, if the committee does not address landowner concerns or protections, it thereby reduces the chance of passage.

Some of the tactical questions can be left to the individual state societies by formatting the bill in such a manner that all concerns are addressed as separate parts in the composite law allowing the state society to omit those parts that they feel would be an overburden on them (and thereby hoping the legislature will not add them later with vague and ambiguous language that muckles the entire law).

I've attached the Maine legislation with my annotations that highlight the parts I've just discussed. I should point out that not all the sections were originally submitted to the legislature.

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MAINE LAW W/COMMENTS

BY DR. KNUD HERMANSEN

Right of entry for professional land surveyor performing surveying services

[The following section is the important part of the right of entry law. It must insure the surveyor and employees can cross any land for the purposes of performing any type of surveying services, without the landowner's permission.]

When performing surveying services⁸ at the request of a landowner or person with an interest in real estate,⁹ a professional land surveyor and the surveyor's assistants may,¹⁰ without the consent of the owner or person in possession,¹¹ enter upon or cross any lands necessary to perform surveying services.¹²

[The following sections are to placate landowner's that surveyors will exercise their right in a reasonable manner and with some prudence.]

[Section 1 addresses a landowner's concerns that the surveyor will not rape and pillage their property.]

1. No authority to intentionally¹³ damage or move object. Nothing in this section may be construed as giving authority or license to a professional land surveyor or the surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

[Section 2 deals with the concerns of the landowner that the law would deny them the right to obtain damages when a surveyor or employee violates the previous section.]

2. Civil liability for actual damage. This section may not be construed to remove civil liability for actual damage to land, chattels, crops or personal property.

⁸ This prevents surveyors from entering property as a citizen hunting or fishing.

⁹ This section clarifies that surveyors can still enter property even though they are performing a survey for an easement holder or on behalf of a developer with a purchase option.

¹⁰ Clarifies that employees working for the surveyor also enjoy the right of entry.

¹¹ This is the main feature and makes it clear that not just landowners but tenants, adverse possessors, etc. cannot prevent the surveyor from entering the property.

¹² The important part of this section is to make it clear that it is not just the immediate neighbor's land that can be crossed.

¹³ The word "intentional" means that a mistaken act will not remove the surveyor from the protection of the act.

[Section 3 relieves any concerns that the right of entry bill is an assault on the principle that a “man’s home is his castle.” It probably states the obvious since surveyors don’t enter buildings anyway but not all legislatures think reasonably and realize the obvious.]

3. No authority to enter building used as residence or for storage. This section may not be construed to give a professional land surveyor or the surveyor's assistant the authority to enter any building or structure used as a residence or for storage.

[Section 4 can be titled as the “good manners” section. It makes sure that surveyors attempt to notify the landowner first before appearing unannounced on their land with machetes and brushhooks thereby scaring neighbors and causing local sheriffs to be called upon them. Sections A & B provides two methods that a surveyor can follow that will remove any question or potential disputes that arise over how and when a notice is sufficient. The time periods that are provided gives landowner’s sufficient time such that dangerous critters can be constrained or the landowner should have time to inform the surveyor about their presence. Note that section A & B are not exclusive methods. If a surveyor simply knocked on the door of a landowner and informed them in person, this would clearly be a “reasonable” method permitted under the law.]

4. Professional land surveyor shall make reasonable¹⁴ effort to notify landowners. A professional land surveyor shall make reasonable effort to notify a landowner upon whose land it is necessary for the professional land surveyor to enter or cross. Notice provided as follows meets the requirement of this subsection:

A. Written notice delivered by hand to the landowner or to the residence of the landowner upon whose land the surveyor may enter or cross, delivered at least 24 hours prior to the surveyor's entering the land; or

B. Written notice mailed by first class mail to the landowner upon whose land the surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's entering the land. The surveyor may rely on the address of the landowner as contained in the municipal property tax records or their equivalent.

[This section embodies a very specific legal duty a landowner is subject to under the common law. This section relieve the landowner of any legal liability if the surveyor happens to fall into a ditch or a tree falls on the surveyor. However, it does impose a duty on the landowner, that the landowner will not dig holes with punji stakes or rig guns with trip wires hoping to injure trespassers. In other words, the landowner is only liable to the surveyor if the landowner attempts to intentionally injure the surveyor. It relieves that landowner of a duty where the surveyor would be viewed as a “guest” in which case the landowner would be liable for negligent acts such as not covering an old well or putting signs up warning of ditches, leaning trees, uneven ground, thorn trees, etc.]

¹⁴ The word “reasonable” is meant to be somewhat vague and could include personal visits, telephone calls, e-mail, fax, etc.

5. Owner or occupant of land; duty of care; liability. The duty of care an owner or occupant owes to the professional land surveyor and the surveyor's assistant is the same as that owed a trespasser.

[Section 6 alleviates concerns of landowners that crooks and charlatans (e.g., lawyers and realtors) may be on their property under the guise of the authority of a surveyor.]

6. Professional land surveyor and assistant shall carry identification and display upon request. A professional land surveyor and the surveyor's assistant shall carry means of proper identification as to their registration or employment and shall display this identification to anyone requesting identification.

[Section 7 addresses the concerns meant to be alleviated by section 5 where landowners are afraid that people will be hurt on their land and then sue them for damages. This section is probably not necessary since it is obvious that surveyors must comply with all regulations.]

7. Compliance with safety regulations. A professional land surveyor and the surveyor's assistant shall comply with all federal and state safety rules and regulations that apply to the land that they enter or cross pursuant to this section.

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ARKANSAS

17-48-303. Right to enter - Immunity from arrest - Identification.

(a) Surveyors shall have the right to enter on public or private land or waters, except buildings, in the lawful pursuit of their occupations and shall be immune from arrest for trespass when performing their duties as prescribed in this subchapter.

(b) (1) Where practical, surveyors shall announce and identify themselves and their intentions before entering upon private property.

(2) Surveyors will carry means of proper identification as to their registration or employment and will display the identification to anyone requesting it.

(3) Surveyors shall not use the privilege granted herein to extend that point of entry as determined by actual survey requirements.

History. Acts 1991, No. 862, §§ 3, 4.

17-48-304. Liability.

(a) Surveyors shall be personally liable for any damage caused to private property when exercising entry under this subchapter.

(b) Surveyors shall forfeit any and all claim for damage or personal injury against the landowner while on such lands or waters unless the damage or injury is caused by the intentional tortious conduct of the landowner or his or her agent.

History. Acts 1991, No. 862, § 5.

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CALIFORNIA

8774. Access to real property; right of entry; notification; exception; monuments within freeway right-of-way

(a) The right of entry upon or to real property to investigate and utilize boundary evidence, and to perform surveys, is a right of persons legally authorized to practice land surveying, and it is the responsibility of the owner or tenant who owns or controls property to provide reasonable access without undue delay. The right of entry is not contingent upon the provision of prior notice to the owner or tenant. However, the owner or tenant shall be notified of the proposed time of entry where practicable.

(b) The requirements of subdivision (a) do not apply to monuments within access-controlled portions of freeways.

(c) When required for a property survey, monuments within a freeway right-of-way shall be referenced to usable points outside the access control line by the agency having jurisdiction over the freeway when requested in writing by the registered civil engineer or licensed land surveyor who is to perform the property survey. The work shall be done within a reasonable time period by the agency in direct cooperation with the engineer or surveyor and at no charge to him or her.

846.5. Surveyors; right of entry; use of boundary evidence and performance of surveys; freeways

(a) The right of entry upon or to real property to investigate and utilize boundary evidence, and to perform surveys, is a right of persons legally authorized to practice land surveying and it shall be the responsibility of the owner or tenant who owns or controls property to provide reasonable access without undue delay. The right of entry is not contingent upon the provision of prior notice to the owner or tenant. However, the owner or tenant shall be notified of the proposed time of entry where practicable.

(b) The requirements of subdivision (a) do not apply to monuments within access-controlled portions of freeways.

(c) When required for a property survey, monuments within a freeway right-of-way shall be referenced to usable points outside the access control line by the agency having jurisdiction over the freeway when requested in writing by the registered civil engineer or licensed land surveyor who is to perform the property survey. The work shall be done within a reasonable time period by the agency in direct cooperation with the engineer or surveyor and at no charge to him.

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COLORADO

18-4-515. Entry to survey property--exception to criminal trespass

(1) Effective July 1, 1992, no person shall be in violation of the trespass laws of this part 5 if the requirements of this section are met. The provisions of this section provide an exception to the trespass laws only and do not affect or supersede the provisions and requirements of articles 1 to 7 of title 38, C.R.S., concerning condemnation proceedings, notwithstanding any laws to the contrary.

(2) Any person who is licensed as a professional land surveyor pursuant to section 12-25-214, C.R.S., or who is under the direct supervision of such a person as an employee, agent, or representative, may enter public or private land to investigate and utilize boundary evidence and to perform boundary surveys if the notice requirement in this subsection (2) is met. The notice of the pending survey shall contain the identity of the party for whom the survey is being performed and the purpose for which the survey will be performed, the employer of the surveyor, the identity of the surveyor, the dates the land will be entered, the time, location, and timetable for such entry, the estimated completion date, the estimated number of entries that will be required, and a statement requesting the landowner to provide the surveyor with the name of each person who occupies the land as a tenant or lessee, whether on a permanent or a temporary basis. Nothing in this subsection (2) shall be deemed to confer liability upon a landowner who fails or refuses to provide such requested statement. At least fourteen days before the desired date of entry the professional land surveyor shall cause such notice to be given to the landowner by certified mail, return receipt requested, and by regular mail. Any landowner may waive the requirement that notice be given by certified mail, return receipt requested, and by regular mail. The waivers described in this subsection (2) may be given orally or in writing.

(3) If a landowner does not acknowledge receipt of the notice within fourteen days of such receipt, the professional land surveyor or other persons described in subsection (2) of this section shall have the right to enter the land pursuant to the specifications given in the notice. If a landowner acknowledges receipt of the notice within fourteen days of receipt, such landowner has the right to modify the time and other provisions of the surveyor's access, as

long as such modifications do not unreasonably restrict completion of the survey.

(4) All persons described in subsection (2) of this section who enter land pursuant to and for a purpose described in this section shall carry upon their person at all times during entry and stay upon the land sufficient identification to identify themselves and their employer or principal, and shall present such identification upon request.

(5) Persons described in subsection (2) of this section shall be liable for actual damages caused during entry and stay upon a landowner's land. No professional land surveyor or person under such surveyor's direct supervision shall have a civil cause of action against a landowner or lessee for personal injury or property damage incurred while on the land for purposes consistent with those described in subsection (2) of this section, except when such damages and injury were willfully or deliberately caused by the landowner.

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CONNECTICUT

[52-557o. Liability of land surveyors](#)

No action for trespass shall lie against any surveyor licensed under chapter 391 [FN1] or person acting at the direction of any such licensed surveyor who enters upon land other than the land being surveyed without causing any damage to such other land in order to perform a survey, provided no such surveyor or person acting at the direction of such surveyor shall enter upon any land owned by a railroad company, as defined in section 16-1, which is within fifty feet of a railroad track without first obtaining written permission from the railroad company, which written permission shall not be unreasonably withheld. Nothing herein shall relieve such licensed surveyor or person from liability for actual damages caused by such entry upon such other property.

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FLORIDA

[Title XXXII](#)

REGULATION OF PROFESSIONS AND
OCCUPATIONS

[Chapter 472](#)

LAND SURVEYING AND
MAPPING

[View Entire
Chapter](#)

472.029 Authorization to enter lands of third parties; conditions.--

(1) IN GENERAL.--Surveyors and mappers or their subordinates may go on, over, and upon the lands of others when necessary to make surveys and maps or locate or set monuments, and, in so doing, may carry with them their agents and employees necessary for that purpose. Entry under the right granted by this subsection does not constitute trespass, and surveyors and mappers and their duly authorized agents or employees so entering are not liable to arrest or to a civil action by reason of such entry; however, this subsection does not give authority to registrants, subordinates, agents, or employees to destroy, injure, damage, or move any physical improvements on lands of another without the written permission of the landowner.

(2) LIABILITY AND DUTY OF CARE ON AGRICULTURAL LAND.--

(a) Any person regulated by this chapter who enters agricultural land shall do so in compliance with all federal, state, and local laws, rules, and regulations pertaining to premises security, agricultural protections, and other health and safety requirements in place on such land.

(b) A landowner is not liable to any third party for civil or criminal acts or damages that result from the negligent or intentional conduct of any person regulated by this chapter on agricultural land.

(c) If written notice is not delivered to the landowner or landowner's registered agent at least 3 business days prior to entry on an agricultural parcel containing more than 160 acres, the duty of care owed by the landowner to those regulated by this chapter is that due an undiscovered trespasser.

(d) This subsection applies only to land classified as agricultural pursuant to s. [193.461](#).

History.--ss. 37, 42, ch. 79-243; ss. 2, 3, ch. 81-318; ss. 5, 7, ch. 89-137; s. 4, ch. 91-429; s. 94, ch. 94-119; s. 6, ch. 2002-41.

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ILLINOIS

225 Illinois Compiled Statutes (ILCS) 330.45, Entry Upon Adjoining Land

*A Professional Land Surveyor, or persons under his/her direct supervision, together with his/her survey party, who, in the course of making a survey, finds it necessary to go upon the land of a party or parties other than the one for whom the survey is made is not liable for **civil or criminal** trespass and is liable only for any actual damage done to the land or property.*

We have had the Entry law for many years and about 5 years ago we added the words **civil and criminal**

Yes. I would say that the law has been practical for PLSs.

It has not been onerous as far as I know.

Just recently IPLSA drafted a door hanger listing the Entry Upon Adjoining Land citation along with other information. These door hangers were printed by IPLSA and made available for purchase by IPLSA members.

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KENTUCKY

322.470 Right of entry on land of others by land surveyor -- Notification of landowner -- Liability of landowner.

As used in this section, "professional land surveyor" shall include the agents, the employees, and any personnel under the supervision of a professional land surveyor.

(1) A professional land surveyor may go on, over, and upon the lands of others if necessary to perform surveys for the location of property corners, boundary lines, rights-of-way, and easements, and may carry with them their customary equipment and vehicles.

(a) Entry under the right hereby granted shall not constitute trespass; and

(b) A professional land surveyor shall not be liable to arrest or a civil action by reason of this entry.

(2) Nothing in this section shall be construed as giving authority to a professional land surveyor to destroy, injure, damage, or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for these damages.

(3) A professional land surveyor shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

(4) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon his or her land under the provisions of this section.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 38, effective January 1, 1999. --

Amended 1986 Ky. Acts ch. 291, sec. 37, effective July 15, 1986. -- Created 1982

Ky. Acts ch. 115, sec. 1, effective July 15, 1982.

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LOUISIANA

RS 14:63

4. CRIMINAL TRESPASS

§63. Criminal trespass

A. No person shall enter any structure, watercraft, or movable owned by another without express, legal, or implied authorization.

B. No person shall enter upon immovable property owned by another without express, legal, or implied authorization.

C. No person shall remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

D. It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

E. The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

- (1) A duly commissioned law enforcement officer in the performance of his duties.
- (2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.
- (3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.
- (4) Any federal, state or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.
- (5) Any federal, state or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.
- (6) Any person authorized by a court of law to enter or remain on immovable property.
- (7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

F. The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

- (1) A professional land surveyor or his authorized personnel, engaged in the "Practice of Land Surveying", as defined in R.S. 37:682.**
- (2) A person, affiliate, employee, agent or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude or any property located on the immovable property which belongs to such a business.
- (3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.
- (4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.
- (5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.
- (6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

- (7) Any candidate for political office or any person working on behalf of a candidate for a political office.
- (8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

G. The following penalties shall be imposed for a violation of this Section:

- (1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.
- (2) For the second offense, the fine shall be not less than three hundred dollars and not more than seven hundred fifty dollars, or imprisonment for not more than ninety days, or both.
- (3) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.
- (4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

H. The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

I. A minor ten years old or younger shall not be arrested, detained or apprehended for the crime of trespass.

Amended by Acts 1960, No. 458, §1; Acts 1964, No. 497, §1; Acts 1981, No. 78, §1, eff. Jan. 1, 1982; Acts 1990, No. 870, §1, eff. Jan. 1, 1991; Acts 1991, No. 438, §1; Acts 1993, No. 887, §1; Acts 2003, No. 279, §3; Acts 2003, No. 802, §1.

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MASSACHUSETTS

[120C. Entry upon adjoining lands by surveyors not constituting trespass](#)

Whenever a land surveyor registered under chapter one hundred and twelve deems it reasonably necessary to enter upon adjoining lands to make surveys of any description included under "Practice of land surveying", as defined in section eighty-one D of said chapter one hundred and twelve, for any private person, excluding any public authority, public utility or railroad, the land surveyor or his authorized agents or employees may, after reasonable notice, enter upon lands, waters and premises, not including buildings, in the commonwealth, within a reasonable distance from the property line of the land being surveyed, and such entry shall not be deemed a trespass. Nothing in this act shall relieve a land surveyor of liability for damage caused by entry to adjoining property, by himself or his agents or employees.

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MAINE

32 M.R.S.A. § 13913. RIGHT OF ENTRY FOR PROFESSIONAL LAND SURVEYOR PERFORMING SURVEYING SERVICES

When performing surveying services at the request of a landowner or person with an interest in real estate, a professional land surveyor and the surveyor's assistants may, without the consent of the owner or person in possession, enter upon or cross any lands necessary to perform surveying services.

1. No authority to intentionally damage or move object. Nothing in this section may be construed as giving authority or license to a professional land surveyor or the surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

2. Civil liability for actual damage. This section may not be construed to remove civil liability for actual damage to land, chattels, crops or personal property.

3. No authority to enter building used as residence or for storage. This section may not be construed to give a professional land surveyor or the surveyor's assistant the authority to enter any building or structure used as a residence or for storage.

4. Professional land surveyor shall make reasonable effort to notify landowners. A professional land surveyor shall make reasonable effort to notify a landowner upon whose land it is necessary for the professional land surveyor to enter or cross. Notice provided as follows meets the requirement of this subsection:

A. Written notice delivered by hand to the landowner or to the residence of the landowner upon whose land the surveyor may enter or cross, delivered at least 24 hours prior to the surveyor's entering the land; or

B. Written notice mailed by first class mail to the landowner upon whose land the surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's entering the land. The surveyor may rely on the address of the landowner as contained in the municipal property tax records or their equivalent.

5. Owner or occupant of land; duty of care; liability. The duty of care an owner or occupant owes to the professional land surveyor and the surveyor's assistant is the same as that owed a trespasser.

6. Professional land surveyor and assistant shall carry identification and display upon request. A professional land surveyor and the surveyor's assistant shall carry means of proper identification as to their registration or employment and shall display this identification to anyone requesting identification.

7. Compliance with safety regulations. A professional land surveyor and the surveyor's assistant shall comply with all federal and state safety rules and regulations that apply to the land that they enter or cross pursuant to this section.

CREDIT(S)

2003, c. 161, § 1, eff. May 15, 2003.

32 M. R. S. A. § 13913, ME ST T. 32 § 13913

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MICHIGAN

ACT NO. 115
PUBLIC ACTS OF 1976
APPROVED BY GOVERNOR
MAY 14, 1976

STATE OF MICHIGAN
78TH LEGISLATURE
REGULAR SESSION OF 1976

Introduced by Reps. Ostling, Griffin, Armbuster, Kennedy, Cramton, Nash, Varnum and Brotherton

ENROLLED HOUSE BILL NO. 4464

AN ACT to provide a surveyor with a right of entry and to limit liability.

The people of the State of Michigan enact:

Sec. 1. As used in this act, "surveyor" means any of the following:

- (4) A surveyor employed by the government of the United States of America or this state.
- (5) A person who is registered as a land surveyor in this state.
- (6) A person who is under the direct supervision of a person who is a surveyor under subdivision (a) or (b), and carrying on his person sufficient identification as to employer.

Sec. 2.

- (1) A surveyor may enter upon public or private lands or waters in this state except buildings for the purpose of making a survey.
- (2) A vehicle used for or during entry pursuant to this section shall be identified on the exterior by a proper and ethical sign listing name, address, and telephone number of the surveyor or firm.

Sec. 3. A surveyor making an entry pursuant to section 2 shall be liable only for actual damage to crops or other property, or for actual damage to negligence of the surveyor during the entry.

Sec. 4. The surveyor by his entry shall forfeit any and all claim for damage or injury to his person and equipment while on the lands or waters, unless the damage or injury is caused by the intentional tortuous conduct of another.

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MINNESOTA

This act is ordered to take immediate effect.

The Minnesota “Right of Entry” law for surveyors is Minnesota Statutes 505.31. The language is as follows:

505.31 Entry upon land; notice.

It is lawful for any surveyor to enter upon any land for the purpose of locating existing survey or reference monuments or landmarks, provided, however, such surveyor shall be responsible to the landowner for any and all damages as a result of such entry, and no surveyor may enter upon any land unless first notifying the owner or occupant of the intended entry for such purpose.

HIST: 1959 c 322 s 1; 1986 c 444

The law was originally passed in 1959 and was amended in 1986. I'm not sure what the 1986 amendment was, but I can get you a copy if you would like it. All current Minnesota Statutes can be accessed at: www.leg.state.mn.us/leg/statutes.asp

To my knowledge our state society (MSPS) feels that the law is adequate and individual surveyors seem to be satisfied with it, but many surveyors seem to forget about the requirement to first notify the owner or occupant. In my role as a county surveyor, I did receive a complaint earlier this year from one of our cities about private sector surveyors crossing sensitive city owned property to access a section corner. Apparently they were driving across a field rather than walking.

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MISSOURI

[327.371. Surveyor exempt from trespass but liable for damages](#)

A professional land surveyor licensed pursuant to the provisions of this chapter, together with such professional land surveyor's survey party, who in the course of a land survey finds it necessary to go upon the land of a party or parties other than the one for whom such professional land surveyor is making the survey shall not be guilty of trespass but shall be liable for any damage done to such lands or property.

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MISSISSIPPI

[73-13-103. Limited liability of land surveyors; trespass](#)

(1) For the purposes of this section, the term "surveyor" means a licensed professional surveyor as defined in [Section 73-13-71](#), and any person who is employed by or under the direct supervision of a professional surveyor licensed under [Sections 73-13-71](#) through [73-13-97](#).

(2) A surveyor may enter in or upon public or private lands or waters, except buildings, while in the lawful performance of surveying duties without criminal liability for trespass; however, a surveyor shall make a good faith attempt to announce and identify himself and his intentions before entering upon private property and must present documentation sufficient to identify him as a surveyor to anyone requesting such identification.

(3) The provisions of this section do not relieve a surveyor from any civil liability that otherwise is actionable at law or in equity, and do not relieve a surveyor from criminal liability for trespass if the entry in or upon the property extends beyond the property or area that is necessary to actually perform the surveying duties.

(4) Surveyors shall be personally liable for any damage caused to private property when exercising entry under this section. No cause of action shall lie against a landowner for damages to a surveyor while on such lands unless the damage is caused by the intentional tortious conduct of landowner or his agent.

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MONTANA

70-16-111. Entry to property by professional land surveyor or other qualified person -- trespass exception -- notice -- liability

(1) Subject to the conditions and restrictions of this section, the provisions of 45-6-203 do not apply to a person who is licensed or registered under Title 37, chapter 67, part 3, as a professional land surveyor, as defined in 37-67- 101, or to a person acting under the direct supervision of a professional land surveyor as an employee, agent, or representative.

(2) A person qualified under subsection (1) may enter public or private land to investigate and use boundary evidence and perform boundary surveys if the notice requirements of subsection (3) are met.

(3)

(a) At least 15 days before the desired date of entry to land, a professional land surveyor shall give notice to the owner of the land, by certified mail, return receipt requested. The notice must contain the following information:

(i) the identity of the person for whom the survey is being performed;

(ii) the purpose for which the survey is being performed;

(iii) the name of the employer of the professional land surveyor;

(iv) the identity of the professional land surveyor;

(v) the dates, times, and location of entry to the land, including the estimated number of entries;

(vi) a timetable for completion of the survey, including an estimated completion date; and

(vii) a statement requesting the landowner to provide the surveyor with the name of each person who occupies the land as a tenant or lessee.

(b) A landowner may waive the notice requirement of this subsection (3), either orally or in writing.

(c) This section does not impose liability upon a landowner who fails or refuses to provide the requested entry.

(4)

(a) If a landowner does not acknowledge receipt of the notice within 15 days, a person qualified under subsection (1) may enter the land pursuant to the specifications given in the notice.

(b) If a landowner acknowledges receipt of the notice within 15 days, the landowner may modify the access provisions of the notice, as long as the modifications do not unreasonably restrict completion of the survey.

(5) Persons qualified under subsection (1) who enter land pursuant to this section shall carry on their person identification sufficient to identify themselves and their employer or principal and shall present the identification upon request.

(6) Vehicular access to perform surveys is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(7) Approval of the landowner is required for the clearing of trees, brush, or other vegetation.

(8) A landowner may request a person qualified under subsection (1) who enters land pursuant to this section to wash any vehicle prior to entry in order to remove mud and debris that might carry noxious weeds or noxious weed seeds. The person may request that the landowner be present at the time of any entry to inspect the vehicle under the terms of this subsection.

(9) Entry upon land for survey purposes by a person qualified under subsection (1) creates a rebuttable presumption that the landowner or lessee properly protected the person against personal injury or property damage while the person was on the land.

(10) As an act of good will and in order to keep the landowner informed, a professional land surveyor shall supply the landowner with information on located, established, or reestablished corners that lie on the land or that may affect the boundaries of the land. Upon request, the professional land surveyor shall provide the landowner with a copy of any relevant survey filed or recorded.

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NEW JERSEY

45:8-44.1. Authority of land surveyors to go on, over and upon lands of others during reasonable hours

A person licensed to practice land surveying as provided in P.L.1938, c. 342 (C. 45:8-27 et seq.) and any of his agents, servants or employees under his direction who are necessary to make a land survey shall have the authority to go on, over and upon lands of others during reasonable hours when necessary to make land surveys if:

- a. The licensed professional land surveyor has made a reasonable attempt, as defined in this section, to notify the owner of the land and, in the case of a lease, the lessee thereof, of his desire to enter on, over and upon the owner's or lessee's land to make a land survey and, the attempt having failed, the licensed professional land surveyor has given written notice, seven days prior to the proposed entry, to the municipal police department of the municipality in which the land is located of his intention to enter, containing the names, addresses, and telephone numbers of those who propose to enter the land and the date, time, duration, and location of the proposed entry; and
- b. The land or any part thereof, to which entry is sought, is not enclosed by a constructed or natural barrier which is at least 6 feet in height or is not posted with signs or notices which prohibit trespassing and contain the name and address of the owner or lessee of the land;
- c. As used in this section, a "reasonable attempt" to notify an owner or lessee means: an attempt to seek acknowledgment of the owner of the land and, in the case of a lease, the lessee thereof, by certified mail, return receipt requested, the attempt to be made a second time if unsuccessful the first time and a third time if unsuccessful the second time, each attempt to be made on a separate business day.

45:8-44.2. Entry not trespass; immunity from arrest or civil action

Any entry under the right granted in this act shall not constitute trespass nor shall the licensed professional land surveyor or his agents, servants or employees be liable to arrest or civil action by reason of the entry.

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NEW MEXICO

61-23-30. Right of entry on public and private property; responsibility.

The engineers and surveyors of the United States and registered professional engineers and surveyors of the state of New Mexico shall have the right to enter upon the lands and waters of the state and of private persons and of private and public corporations within the state for the purpose of making surveys, inspections, examinations and maps, subject to responsibility for actual damage to crops or other property or for injuries resulting from negligence or malice caused on account of that entry.

This, statute falls under the professional licensure act. Like all laws under this section, it has a sunset clause and becomes void after 2012 unless renewed by the legislature at that time.

[CHAPTER 61](#) **[Professional and Occupational Licenses](#)**

[23. Engineering and Surveying, 61-23-1 through 61-23-32.](#)

I cannot find any legal citation or reference other than what is shown above. As far as I know, there have been few, if any, complaints from New Mexico surveyors about the law.

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NEVADA

[625.335. Entry upon land or water to perform duties: Notice; approval](#)

1. A surveyor may enter public or private land, a water course or a body of water to:
 - (a) Investigate, recover, establish, reestablish, rehabilitate, perpetuate or use evidence of a boundary location.
 - (b) Locate, relocate, use, install, perpetuate or replace a survey monument.
 - (c) Perform land or control surveying.
2. Before entering private land pursuant to subsection 1, a surveyor must provide written notice to the owner or occupant of the land of the proposed date and approximate time of entry upon the land and a statement of the purpose for entry upon the land. The notice must include the name, number of the license and business affiliation of the surveyor. The surveyor shall obtain the approval of the owner or occupant of the land before entry. An owner shall not unreasonably withhold approval of such entry on his land. The provisions of this subsection are not applicable to an entry made pursuant to [NRS 37.050](#).
3. The provisions of this section do not relieve a surveyor from any civil liability for any damage caused by his entry pursuant to subsection 1.
4. As used in this section, "surveyor" includes:
 - (a) A professional land surveyor or his designee.
 - (b) A surveyor employed by the Federal Government or an agency of the Federal Government, the State of Nevada, a political subdivision of the state or an agency of the state.

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OKLAHOMA

§69-1229. Location and identification of corners within right-of-way.

The Department shall, in cooperation with the county surveyor of the county affected, locate section and quarter section corners within the right-of-way of all state highways when surveys and plans are being made for contemplated new construction or resurfacing, and re-mark such corners in the right-of-way by a suitable marker, of a design to be approved by the Department. Whenever such corners are located on a highway to be hard-surfaced, or resurfaced, the Department shall identify such corners on the roadway by bronze surface markers, of a design to be approved by the Department.

Laws 1968, c. 415, § 1229, operative July 1, 1968.

§69-1230. Obliteration of corners by highway construction.

Where any section or quarter section corner is obliterated, or may be obliterated, by highway construction, the Department shall witness the location of such corners by two or more well defined objects located outside of the contemplated right-of-way limits and shall note such witnesses on the highway construction plans.

Laws 1968, c. 415, § 1230, operative July 1, 1968.

§69-1231. Re-marking of existing corners.

The Department shall also re-mark existing section corners and quarter section corners on state highways that are now paved, with markers similar to those described herein, where reliable reference ties are available.

Laws 1968, c. 415, § 1231, operative July 1, 1968.

§69-1232. Applicability to counties.

The provisions of Sections 1229, 1230 and 1231, shall apply with full force and effect and in like manner to the board of county commissioners of each county in this state, whenever section corners or quarter section corners are obliterated, or may be obliterated, by the construction or resurfacing of either low-type or high-type paved roads on any county highway within the county.

Laws 1968, c. 415, § 1232, operative July 1, 1968.

§69-1233. Right of Entry.

For the purpose of carrying into effect the provisions of Sections 1229 through 1232, it shall be lawful for all persons employed in making such re-marking of corners to enter upon and across all lands within the state; provided, however, that in so doing, no damage shall be done to private property.

Laws 1968, c. 415, § 1233, operative July 1, 1968.

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OREGON

Copied below is the Oregon statute regarding "right of entry". There have been a few complaints brought against surveyors to our registration board shortly after the law went into effect but nothing recently that I am aware of. Some surveyors say they don't like the law because now they have to give notice prior to entry which causes delays in getting the job done. Before the law, they could quietly tie a corner just inside an adjoiner without disturbing anything and then be gone. Now, if they do that and get caught they are subject to disciplinary action by the Board. I don't have any problems personally with the law because 99% of my work is in the forest areas where most land owners are happy to have you tie or locate a corner.

672.047 Right of entry by land surveyor; compensation for damages caused; notice; removal of survey markers. (1) Subject to subsection (4) of this section, a registered professional land surveyor, or any employee or agent of the surveyor, may enter on foot, where practicable, upon any land for the purpose of surveying or performing any survey work and may establish permanent survey monuments as allowed by rule of the State Board of Examiners for Engineering and Land Surveying.

(2) Any person exercising the right of entry granted under subsection (1) of this section shall do so with no unnecessary damage to the land entered upon. Damages to trees, shrubs and other vegetation intentionally caused by the surveyor shall be subject to compensation and penalties as provided in ORS 105.810. The surveyor shall compensate the landowner for all other actual monetary damages, or \$100, whichever is greater. Actual monetary damages may include but are not limited to all costs in time, labor and materials incurred by the property owner to return the property to the condition it was in prior to the damage.

(3) If a request is made in writing in a timely manner, a copy of the survey shall be provided in a timely manner to any landowner who owns property that is outside an urban growth boundary and is affected by subsection (4) of this section.

(4) A registered professional land surveyor, or any employee or agent of the surveyor, shall not enter upon or establish any permanent survey monument upon any land without first attempting to provide notice to the landowner or occupant of the property in person. When the landowner or occupant is not available, written notice shall be posted in a conspicuous place where it is most likely to be seen. The posted notice shall give the professional land surveyor's name, address, telephone number, purpose, availability of the survey and the presence of any temporary or permanent monuments or other markers left on the property.

(5) A registered professional land surveyor, or any employee or agent of the surveyor, who enters land as allowed under this section is owed no greater duty of care than that owed by a landowner to a trespasser.

(6) Notwithstanding the provisions of subsection (1) of this section, a registered professional land surveyor, or any employee or agent of the surveyor, may use a vehicle to enter upon land provided that the vehicle remains on existing roadways where practicable.

(7) The surveyor shall remove all flagging, stakes and other temporary materials that are above ground if leaving them in place creates an unreasonable risk of harm to persons or property. Except for forestland as defined in ORS 527.620, the surveyor shall remove all temporary above ground materials within 60 days of placement unless written authorization to leave the materials in place is received from the landowner or occupant. [1995 c.382 §13; 1997 c.743 §1]

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SOUTH DAKOTA

1-1-10. Land entry authorized to survey boundaries - Consent required to enter mine - Damage to property.

For the purpose of making surveys required by or essential to the effect of any acts of the United States Congress or of the Legislature of this state or for the determination of boundaries of real estate, any of the duly authorized officers or agents of the United States or of this state, or any engineer or land surveyor duly qualified or registered under the laws of this state, and the persons necessarily and lawfully employed in making any such survey may enter upon lands within the boundaries of this state for such purposes, but this section shall not be construed as authorizing any unnecessary interference with private rights. Nothing in this section shall be construed to permit any person to enter any shaft, tunnel, stope, or underground workings of any individual person engaged in mining for precious metals without consent of the owner or person in possession of such shaft, tunnel, stope, or underground working.

Nothing herein contained shall exempt any person from payment of actual damages done by him while upon such land.

SDSPLS is the process of review and discussion of state statutes that pertains to surveying. I have forwarded your questions to the SDSPLS Board of Directors and Committee Chairs. If my BOD has comments regarding questions 3 and 4, we will forward that information to you.

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TENNESSEE

62-18-124. Right-of-entry - Liability - Notice to landowners - Injunctions.

(a) A professional land surveyor, the professional land surveyor's agents, employees and personnel under the professional land surveyor's supervision, may go on, over and upon the lands of others when necessary to perform surveys for the location of property corners, boundary lines, rights-of-way and easements, and, in so doing, may carry with them their customary equipment and vehicles.

(b) A professional land surveyor, the professional land surveyor's agents, employees and personnel under the professional land surveyor's supervision entering the lands of others under the right hereby granted, and doing no unnecessary injury, are liable only for the actual damage done, and, if sued in such case, the plaintiff shall recover only as much costs as damages.

(c) Nothing in this section shall be construed as giving authority to a professional land surveyor, the professional land surveyor's agents, employees or personnel under the professional land surveyor's supervision to destroy, injure, damage or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for such damage.

(d) A licensed land surveyor during the conduct of a boundary survey where there is discovered, or reasonably should have been discovered, any major apparent discrepancy as defined by the board between the deed descriptions of adjoiningers, evidence of use or possession not consistent with deed descriptions, or otherwise has notice that there is an adverse claim across a boundary, shall notify the affected adjoiningers. Notice to nonresident or absentee owners will be by mail to the current address used for mailing property tax notices. In cases in which the landowner does not reside on the property, reasonable effort shall mean notification by certified mail.

(e) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon such land under the provisions of this section.

(f) Injunctive relief may be had against a landowner restricting entry to the landowner's land in violation of this section by petition addressed to the circuit or chancery court of the division in which such violation is alleged to have occurred.

[Acts 1984, ch. 934, §§ 2-5; 2000, ch. 930, § 1.]

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TEXAS

§ 30.05. CRIMINAL TRESPASS.

(a) A person commits an offense if he enters or remains on or in property, including an aircraft or other vehicle, of another without effective consent or he enters or remains in a building of another without effective consent and he:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:
 - (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
 - (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
 - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
 - (D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:
 - (i) vertical lines of not less than eight inches in length and not less than one inch in width;
 - (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
 - (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or
 - (b) 1,000 feet apart on land other than forest land; or
 - (E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.
- (3) "Shelter center" has the meaning assigned by Section 51.002, Human Resources Code.
- (4) "Forest land" means land on which the trees are potentially valuable for timber products.
- (5) "Agricultural land" has the meaning assigned by Section 75.001, Civil Practice and Remedies Code.
- (6) "Superfund site" means a facility that:
 - (A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or
 - (B) is listed on the state registry established under Section 361.181, Health and Safety Code.

(c) It is a defense to prosecution under this section that the actor at the time of the offense was a fire fighter or emergency medical services personnel, as that term is defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances.

(d) An offense under Subsection (e) is a Class C misdemeanor unless it is committed in a habitation or unless the actor carries a deadly weapon on or about the actor's person during the commission of the offense, in which event it is a Class A misdemeanor. An offense under Subsection (a) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if:

- (1) the offense is committed:
 - (A) in a habitation or a shelter center; or
 - (B) on a Superfund site; or
- (2) the actor carries a deadly weapon on or about his person during the commission of the offense.

(e) A person commits an offense if without express consent or if without authorization provided by any law, whether in writing or other form, the person:

- (1) enters or remains on agricultural land of another;
- (2) is on the agricultural land and within 100 feet of the boundary of the land when apprehended; and

- (3) had notice that the entry was forbidden or received notice to depart but failed to do so.
- (f) It is a defense to prosecution under this section that:
- (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and
 - (2) the person was carrying a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun of the same category the person was carrying.
- § 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN.
- (a) A license holder commits an offense if the license holder:
- (1) carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and
 - (2) received notice that:
 - (A) entry on the property by a license holder with a concealed handgun was forbidden; or
 - (B) remaining on the property with a concealed handgun was forbidden and failed to depart.
- (b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.
- (c) In this section:
- (1) "Entry" has the meaning assigned by Section 30.05(b).
 - (2) "License holder" has the meaning assigned by Section 46.035(f).
 - (3) "Written communication" means:
 - (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun"; or
 - (B) a sign posted on the property that:
 - (i) includes the language described by Paragraph (A) in both English and Spanish;
 - (ii) appears in contrasting colors with block letters at least one inch in height; and
 - (iii) is displayed in a conspicuous manner clearly visible to the public.
- (d) An offense under this section is a Class A misdemeanor.
- (e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

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VERMONT

Title 27: Property

Chapter 1: ESTATES IN REAL PROPERTY

27 V.S.A. § 4. Right of entry for survey

§ 4. Right of entry for survey

In cases wherein the title to lands, tenements or hereditaments may come in question, or in order to establish boundaries between abutting parcels, a licensed surveyor with the necessary assistants employed by any of the parties to such disputed title, may enter upon such lands or real estate or other lands for the purpose of running doubtful or disputed lines and locating or searching for monuments, establishing temporary monuments and ascertaining and deciding the location of the lines and monuments of a survey, doing as little damage as possible to the owners of such lands. (Amended 1985, No. 116 (Adj. Sess.), § 2.)

I believe it is safe to say that Vermont Surveyors consider this law practical. I know of few cases where it has actually been invoked. Just recently however, an adjoining landowner, who happened to be an attorney, pointed out that the licensee has to accompany assistants to meet the letter of the law.

Our practice is to recon and recover what appears to be pertinent evidence and send a crew to do the actual measuring. The crew may or may not include a licensed surveyor.

Speaking for myself. I have never needed the statute to accomplish the task. Simply speaking with the abutters has made it amicable in almost every case.

Thanks for undertaking this project. Hope all goes well.

Vaughn C. Button, L.S.

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WISCONSIN

[59.73. Surveys; expressing bearings, subdividing sections](#)

(1) **How bearings expressed in surveys.** In all surveys the bearings shall be expressed with reference to a magnetic, true or other identifiable line of the public land survey, recorded and filed subdivision or to the Wisconsin coordinate system. In all cases the reference selected shall be so noted as set forth in [s. 59.45\(1\)\(a\)2.](#) and if magnetic must be retracable and identifiable by reference to a monumented line.

(2) **Subdividing sections.** Whenever a surveyor is required to subdivide a section or smaller subdivision of land established by the United States survey, the surveyor shall proceed according to the statutes of the United States and the rules and regulations made by the secretary of the interior in conformity to the federal statutes. While so engaged a surveyor and the surveyor's assistants shall not be liable as a trespasser and shall be liable only for any actual damage done to land or property.

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WEST VIRGINIA TRESPASS

ARTICLE 3B. TRESPASS.

§61-3B-1. Definitions.

As used in this article:

- (1) "Structure" means any building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.
- (2) "Conveyance" means any motor vehicle, vessel, railroad car, railroad engine, trailer, aircraft or sleeping car, and "to enter a conveyance" includes taking apart any portion of the conveyance.
- (3) An act is committed "in the course of committing" if it occurs in an attempt to commit the offense or in flight after the attempt or commission.
- (4) "Posted land" is that land upon which reasonably maintained signs are placed not more than five hundred feet apart along and at each corner of the boundaries of the land, upon which signs there appears prominently in letters of not less than two inches in height the words "no trespassing" and in addition thereto the name of the owner, lessee or occupant of the land. The signs shall be placed along the boundary line of posted land in a manner and in a position as to be clearly noticeable from outside of the boundary line. It shall not be necessary to give notice by posting on any enclosed land or place not exceeding five acres in area on which there is a dwelling house or property that by its nature and use is obviously private in order to obtain the benefits of this article pertaining to trespass on enclosed lands
- (5) "Cultivated land" is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture or trees or is fallow land as part of a crop rotation.
- (6) "Fenced land" is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, other wire or other material, which stands at least three feet in height. For the purpose of this article, it shall not be necessary to fence any boundary or part of a boundary of any land which is formed by water and is posted with signs pursuant to the provisions of this article.
- (7) Where lands are posted, cultivated or fenced as described herein, then such lands, for the purpose of this article, shall be considered as enclosed and posted
- (8) "Trespass" under this article is the willful unauthorized entry upon, in or under the property of another, but shall not include the following:
 - a. Entry by the state, its political subdivisions or by the officers, agencies or instrumentalities thereof as authorized and provided by law.
 - b. The exercise of rights in, under or upon property by virtue of rights-of-way or easements by a public utility or other person owning such right-of-way or easement whether by written or prescriptive right.
 - c. Permissive entry, whether written or oral, and entry from a public road by the established private ways to reach a residence for the purpose of seeking permission shall not be trespass unless signs are posted prohibiting such entry.
 - d. Entry performed in the exercise of a property right under ownership of an interest in, under or upon such property.
 - (e) Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or

appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property.

§61-3B-3. Trespass on property other than structure or conveyance.

(a) Any person who knowingly and without being authorized, licensed or invited, enters or remains on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing or cultivation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars.

(b) If the offender defies an order to leave, personally communicated to him by the owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate, and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail for a period not to exceed six months, or both such fine and imprisonment.

(c) If the offender is armed with a firearm or other dangerous weapon with the unlawful and felonious intent to do bodily injury to a human being during his commission of the offense of trespass on property other than a structure or conveyance, such offender shall, notwithstanding the provisions of section one, article seven, chapter sixty-one of this code, be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail for a term not to exceed six months, or fined not more than one hundred dollars, or both such fine and imprisonment.

(d) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass shall be liable to the property owner in the amount of twice the amount of such damage: Provided, That the provisions of this article shall not apply in a labor dispute.

Personally I would characterize this law as practical for the practicing surveyor. As for the State Society, I think we need time to get membership feedback. I do not recall our discussing this issue and forming an official position. Perhaps the lack of such a discussion might indicate something. I have asked our NSPS governor to solicit input from the membership on this matter.

I do not consider this law to be onerous to the practicing surveying professional. We recently passed legislation revising the laws governing surveying in West Virginia including a revision to the minimum standards for boundary surveys requiring surveyors to make a reasonable attempt to notify adjoining and discuss property line information and evidence with them. Property access is usually discussed at this time. Our State Society sponsored, supported and authored some of the language to that effect in our new bill. I would think this requirement more onerous than our trespass law and we still deemed it worthwhile.

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WEST VIRGINIA RIGHT OF ENTRY

W. Va. Code, § 29-2-9

§29-2-9. Right of engineers and surveyors to enter on property.

The engineers, surveyors and other persons employed by and acting for said survey, and all such persons employed by and acting for the United States geological survey, or other department of the United States government, having for their purposes the obtainment and diffusion of practical information relating to the resources and development of the state, the advancement of science, and the carrying out of the objects of the state geological and economic survey, shall have the right to enter upon all lands, either public or private, and into all mines, for the purpose of exploring, surveying, or doing any other thing which may be necessary to effect such objects, and examine any property, products or developments, relating to the objects of said survey, within the state, without molestation or arrest, and without being liable to the owners thereof, except for actual damages done to the property.

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