



HB 386 OBSTRUCTION OF PUBLIC PLACES; TRESPASSING SECTIONAL ANALYSIS

February 28, 2024

Section 1. This section amends obstruction of airports to prohibit a person from obstructing a runway in ways other than placing an object on the runway.

Section 2. This section adds a new penalty provision to the crime of obstruction of airports and runways. The amendment makes it a class C felony for a person to place an object on the runway and a class A misdemeanor for a person to otherwise obstruct a runway, dig a hole on a runway, or do any kind of excavation on a runway.

Section 3. This section makes a conforming change to account for the amendments in section 2.

Section 4. This section creates a new provision that establishes strict liability for violation of any of the criminal statutes created or amended in the bill. There is no requirement that a defendant in a civil case be convicted of a crime under this new section; however, the elements of the criminal offense would need to be established by a preponderance of the evidence in a civil action to establish liability.

Subsection (a) extends standing to bring a lawsuit to any person whose passage is obstructed, regardless of whether the person was physically injured. This subsection provides for a schedule of statutory damages in addition to compensatory and punitive damages available to a successful plaintiff. This subsection also provides for “strict liability” so that a plaintiff should not be required to prove that the defendant negligently, recklessly, or intentionally damaged the plaintiff.

Subsection (b) extends liability beyond specific individuals who physically obstruct access to include any person who instigated, planned, encouraged, or conspired with the obstructor or obstructors. Liability for collaborators under this subsection is “joint and several” and does not divide the responsibility for paying damages between the defendants. Any one defendant is responsible for the full measure of damages awarded to a plaintiff and the defendant is responsible for seeking reimbursement from the other tortfeasors. Joint and

several liability under this subsection includes corporations and other legal entities as well as natural persons.

Subsections (c) and (d) explicitly permit a plaintiff to obtain a temporary or permanent restraining order to stop ongoing obstruction and to be awarded costs and fees if successful.

Subsection (e) is a “long-arm” provision that extends the court’s jurisdiction to persons outside of the state who plan and encourage obstruction within the state.

Subsection (f) defines “nominal damages,” which are awarded to a plaintiff who proves that their passage was obstructed but suffered no injury to person or property.

Section 5. This section amends the crime of criminal trespass in the first degree (entering or remaining unlawfully upon land with intent to commit a crime or in a dwelling) to be a class C felony if the person commits criminal trespass in the first degree and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response.

Section 6. This section amends the crime of criminal trespass in the second degree (entering or remaining unlawfully upon premises or in a vehicle) to be a class A misdemeanor if the person commits criminal trespass in the second degree and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response.

Section 7. This section makes a conforming change to account for the changes in section 8 that make obstruction of highways a crime rather than a violation.

Section 8. This section makes it a class C felony for a person to obstruct a highway, by dropping a substance on the highway or otherwise, that creates a substantial risk of physical injury to another person or interferes with an emergency response. Other types of obstruction would be a class A misdemeanor.

Section 9. This section creates the new crime of obstruction of free passage in public places. A person commits the crime of obstruction of free passage in public places by knowingly rendering a public place impassable or passable only with unreasonable convenience or hazard. Obstruction of free passage in public places is a class A misdemeanor if the obstruction creates a substantial risk of physical injury to another person, substantially interferes with a person’s ability to access public places that render governmental services, or interferes with an emergency response. This statute does not apply to permitted conduct by the state or a municipal government or conduct that is otherwise authorized by law or by the person in charge of the premises.

Section 10. This section amends the crime of obstruction to navigable water to be a class A misdemeanor if the person obstructs a navigable waterway and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response. Other obstructions to navigable water are a class B misdemeanor.

Section 11. This section provides prospective application of the criminal offenses amended in the bill.

Section 12. This section establishes the effective date as July 1, 2024.