New Illinois Laws Create Triple Threat to Farm Trespassers

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Many Illinois farmers believe that trespassing is a growing problem, especially incidents involving ATVs or other vehicles. The Illinois legislature has responded with a triple threat.

A trespass is entry upon another’s property without permission. Trespass is a “civil” wrong. The aggrieved landowner can hire an attorney and sue the trespasser in civil court. If the landowner wins, the owner can collect damages for injury to crops, etc.

Trespassing is also a “crime” if the entrant had received prior notice that entry was forbidden, for example, where “No Trespassing” signs have been conspicuously posted at the entrance. Such a trespasser can be prosecuted in “criminal” court by the State’s Attorney and, if convicted, fined or sent to jail for the crime of “criminal trespass to real property.” If the trespasser also knowingly damages another’s property, the trespasser also is guilty of a different crime – “criminal damage to property.”

Public Act 94-512, effective January 1, 2006, affects the ability of a farmer to collect damages in civil court where a trespasser under 16 uses a motor vehicle (e.g., an ATV) to trespass on a farm. In such circumstances the parent or legal guardian of the trespasser and the owner of the vehicle will be jointly and severally liable to the landowner for the damages caused. The Act also clarifies what damages can be collected in civil court, including court costs and attorney’s fees. This new legislation should encourage adults (parents, guardians, and vehicle owners who will be liable for civil damages caused by the trespassing youth) to be more proactive in preventing youths under 16 from trespassing with vehicles on farms.

Related new legislation, Public Act 94-509, was effective in August. It increased criminal penalties for “criminal trespass to real property” when the trespasser uses a motor vehicle while trespassing on agricultural lands. The crime is now a Class A misdemeanor, no matter what the trespasser’s age. This stiffens the penalty for trespassing on farms while using a motor vehicle – doubling the potential jail time from six months to one year and boosting the maximum fine to $2,500.

Public Act 94-509 also increased the penalties for “criminal damage to property” if the damaged property is a grain elevator, farm equipment, or immovable items of agricultural production, including grain bins and barns. The criminal penalties are increased generally, and they depend on the amount of damage. If the damage to
property exceeds $100,000, for example, the crime is now a Class 1 Felony punishable by up to 15 years in prison.

Trespassing on an Illinois farm is now riskier because of the triple threat created by new legislation. One amendment threatens the trespasser’s parent or guardian and the vehicle owner with civil liability for damages caused by a trespasser under 16 who uses a motor vehicle (e.g., an ATV) to trespass on farmland. Another amendment threatens trespassers of all ages who trespass on farms using a motor vehicle. The new threat is increased criminal penalties, e.g., double the previous jail time. A third amendment threatens trespassers of all ages who intentionally damage certain farm property. The new threat is stiffer criminal penalties, e.g., up to 15 years where the damage exceeds $100,000. These new “triple threats” are intended to discourage would-be trespassers from entering another’s farmland without permission.