

(H. B. 2984)

**(No. 350)**

(Approved September 2, 2000)

## **AN ACT**

To amend Article 177 of Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto,” to increase the penalty established for different modalities of the crime of trespass, the penalty of restitution.

### **STATEMENT OF MOTIVES**

Criminal trespass (sic) seeks to protect real property. Real property may be mentioned as among things susceptible to criminal trespass, when it is invaded and occupied, and when boundaries are altered.

We find the illegal invasion or occupation of land or property belonging to others, with the intent of exercising ownership or possessory acts within the modalities included in this Article. That is to say, the act of invading land or property means to occupy a place arbitrarily, to enter somewhere without having the right to do so, even if this is done without violence or deceit.

Criminal trespass intends to protect a real and effective possession from total or partial wrongful seizure by the perpetrator. This crime is committed as soon as a person enters property with the specific intent to commit ownership or possessory acts. However, it is not necessary that such acts of ownership or possession be committed. For the crime to be committed in the modality contained in paragraph (a), a momentary occupation of the land or property is not sufficient. Acts must be committed through which it can

be inferred that the property was occupied with the purpose of performing ownership or possessory acts. That is to say, that for criminal trespass to occur, affirmative and intentional acts must take place; it is not a crime that can be committed through negligence.

However, in the last decade, through the Puerto Rican media, we have been able to ascertain that the number of cases invasion of land belonging to the Government of Puerto Rico has risen significantly. Curiously, the majority of these land invasions or trespasses have taken place on election years. Thus, hundreds of citizens commit trespass or invade land belonging to the Government of Puerto Rico with the specific intention of performing ownership and possessory acts on them, as if the lands were their own, and on said land which they do not own, they establish unsafe structures, which do not resist the elements, for their homes. They divide and surround plots of land, and they perform clandestine water and electrical connections, placing at risk the lives of people who reside in the home structures they have built, and this way they appropriate the land for themselves.

The truth is that these land trespasses cost the Puerto Rico Government and municipalities millions of dollars since, once they invade and begin to perform ownership and possessory rights, they demand that the state and local government, at their own expense, pave roads, build curbs, legalize drinking water and electrical services and improve the infrastructure of the community they have formed.

Presently, several municipalities in our Island face serious problems with established invasions. However, Puerto Rico is a country with a rule of law, where no one is above the Law. To prevent such actions, there are governmental, federal and municipal social programs, which procure housing for citizens following certain established procedures.

This legislation seeks to increase the penalty established by Article 177 of our Penal Code in response to the dizzying proliferation of land invasions which have occurred in recent years. Such invasions have caused fights, assaults and even deaths when the authorities proceed to remove these persons from the land they have trespassed. Occasionally, this has caused the authorities to express reserve when intervening against land trespassers, for fear of assaults.

This Legislature understands that illegal behavior cannot be legalized through the type of subterfuge used by land trespassers, particularly on election years. We intend this measure to effectively dissuade and contribute toward the eradication of the illegal practice of land trespassing. Therefore, it is vital that public order officers respond quickly and firmly against trespass or invasion of land complaints, to prevent same. This measure increases the current fine from five hundred (500) dollars up to a fine not to exceed five thousand (5,000) dollars, and the penalty of restitution is included. The objective is to make the trespasser responsible for the damage he causes and, when evicted from the trespassed land, for same to reinstate everything to its original condition.

We cannot allow the continued breach of our Law, because these land trespasses not only represent a high economic cost to the state and municipal Governments, but also they jeopardize citizens' lives when land in flood areas is invaded and when clandestine water and electrical connections are established therein.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Article 177 of Act No. 115, of July 22, 1974, as amended, is hereby amended to read as follows:

“Trespass”

Imprisonment for a term of not more than six (6) months, or a fine of not more than five thousand (5000) dollars, or both penalties, at the discretion of the court, shall be imposed on any person who commits any of the following acts:

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....

Regarding any of the modalities listed above, the Court shall impose the penalty of restitution in addition to the established penalty; further, at its discretion, it may impose the penalty of rendering community service in lieu of the term of imprisonment.

Section 2.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 350 (H.B. 2984) of the 7<sup>th</sup> Session of the 13<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Article 177 of Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto,” to increase the penalty established for different modalities of the crime of trespass, the penalty of restitution,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 1<sup>st</sup> of February of 2005.

Luis Fusté-Lacourt  
Director