

Handling Trespass Issues

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Agriculture Law Education Initiative

The Agriculture Law Education Initiative (ALEI) is a collaboration of the Francis King Carey School of Law at the University of Maryland, Baltimore (UMB); the College of Agriculture & Natural Resources at the University of Maryland, College Park (UMCP); and the School of Agricultural and Natural Sciences at the University of Maryland Eastern Shore. ALEI is an initiative of the University of Maryland: MPowering the State.

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Disclaimer

This presentation is intended to provide general information over legal issues and should not be construed as providing legal advice. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss laws of states other than Maryland. For advice about how these issues might apply to your individual situation, consult an attorney.



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Trespasser

Trespasser

- *A trespasser is a person who enters your property without your consent and remains without your consent*
- *Example: Charlie is hunting on your neighbor's farm but ends up on yours, knows he is on your land, and stays there*
- *Two types of trespass:*
 - *Civil trespass*
 - *Criminal trespass*



Criminal Trespass

Maryland Code defines 4 types of criminal trespass

- 1. Occupy property that is clearly posted with no trespassing signs that can be reasonably seen or according to DNR regulations (blue paint mark on certain trees)***
- 2. a person could criminally trespass if the person pulls a vehicle, including a farm tractor or lawnmower, onto a private driveway clearly marked as private***
- 3. when a trespasser returns to or remains on private property after being warned by the owner or tenant to leave the property***
- 4. criminal trespass would include a person who without permission by the owner or tenant enters onto cultivated land, i.e., land cleared of its natural vegetation and planted with a crop or orchard***



Criminal Trespass

Anyone guilty of criminal trespass is subject to imprisonment of no more than 90 days or a fine of no more than \$500.



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Criminal Trespass



In DE, would be first degree criminal trespass to enter and remain unlawfully in a livestock facility knowingly



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Criminal Trespass

***Violation of that is up to
1 year in prison or up to
a \$2,300 fine***



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Civil Trespass

Different than criminal trespass, here just a civil wrong and no criminal violation (although both could exist in same set of facts)

Need to prove 3 elements:

- 1. the other person occupied or exercised some control over your property;*
- 2. that the exercise of some control or occupation of your property occurred because of the other party's physical act or force against the property; and*
- 3. the other party did not have your permission to be on the property*



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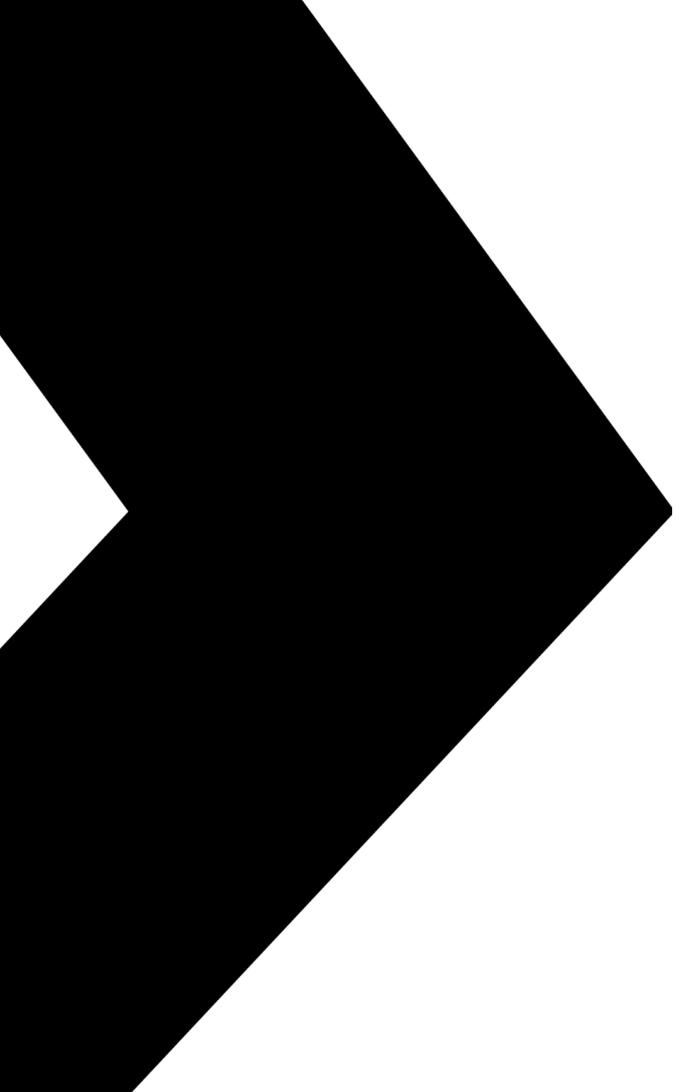
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Civil Trespass

- *Here trespasser would be liable for damages caused by the trespass*
- *For ex: if a neighbor rides an ATV onto your crop field without your permission and tears up a portion of your corn crop, the neighbor has trespassed.*
 - *Here, the neighbor occupied your crop field, the occupation occurred because of your neighbor's physical act of riding the ATV on to the crop field, and the neighbor did not have your permission to be in the field.*
 - *If the neighbor is unwilling to pay for the damages, you have the option to file a civil suit for trespass against the neighbor seeking damages for the damaged corn.*





Strategies

Strategies



- *Post no trespassing signs/use blue paint*
- *How many signs?
Checklist available
for you*



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Strategies

Consider fencing off the property or planting natural buffers that limit the ability to see the property from the road



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Wrap Up

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Get signage posted on the farmland to prevent trespass issues

Consider strategies that might deter trespassers



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Southern Ag Today Blog



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www.southernagtoday.org/e-news.aspx

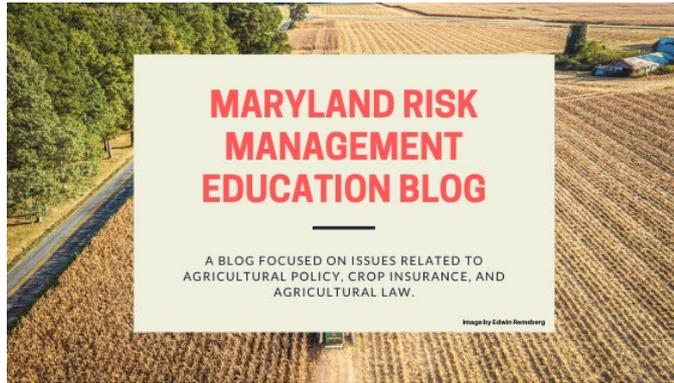


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Md. Risk Management Blog



- *Department of Ag and Resource Econ's blog updated periodically with timely legal, crop insurance, farm policy, and water conservation information.*
- *www.agrisk.umd.edu*
- *Signup for updates on the site to get new posts emailed to you, or*
- *Text 999066 to 1-781-262-3877 to signup*



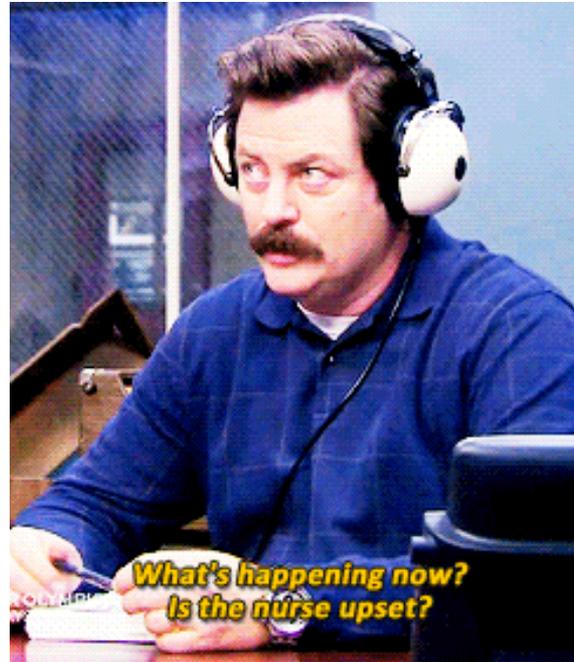
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Podcast

- *New episodes 2x per month covering risk management education issues*
- www.marylandagpodcast.org
- *Find also on iTunes, Google Play, and TuneIn*



Any Questions??

Thank you!



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A vibrant campus scene featuring a large green lawn, trees with autumn foliage, and a building in the background. The text 'FEARLESSLY FORWARD' is overlaid in a white, slanted banner. The word 'FEARLESSLY' is in a bold, black, sans-serif font, while 'FORWARD' is in a white, bold, sans-serif font with a black outline. The background shows a clear blue sky and a well-maintained campus environment with people walking on a path.

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