

Introduced by Senator Aanestad

February 20, 2004

An act to add Sections 818.3 and 11014.5 to the Government Code, relating to property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1728, as introduced, Aanestad. Private property: state agency access.

Existing law provides that every person who, among other acts, willfully commits a trespass by refusing or failing to leave lands immediately upon being requested by the owner of the land is guilty of a misdemeanor.

This bill would prohibit a state agency from entering upon private property except with the consent of the property owner and pursuant to specified requirements, including that a state agency notify the owner of private property by telephone at least 72 hours prior to the agency's entering the property. The bill would define obtaining consent for this purpose as executing an entry permit with specified terms limiting the property owner's liability. The bill would provide that the owner, within 48 hours after receiving this notice, may notify the state agency of specified conditions on the agency's entry upon the property. This bill would further require the state agency, when it enters upon private property, to, among other things, comply with any reasonable condition of entry that the property owner may establish.

The bill would provide that its provisions do not apply to the entry upon private property by a law enforcement or other appropriate agency in response to an emergency situation involving a violent crime or an immediate threat to human life.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 818.3 is added to the Government Code,
2 to read:
3 818.3. Notwithstanding any other provision of law, a state
4 agency may be liable for damages pursuant to Section 11014.5.
5 SEC. 2. Section 11014.5 is added to the Government Code, to
6 read:
7 11014.5. (a) For purposes of this section, “state agency”
8 includes the California State University, and any officer,
9 employee, contractor, or agent of a state agency.
10 (b) Notwithstanding any other provision of law, a state agency
11 may not enter private property except pursuant to this section.
12 (c) (1) A state agency shall notify the owner of private
13 property by telephone at least 72 hours prior to the agency’s
14 entering the property. The state agency may not enter the property
15 without the owner’s consent, which shall be obtained after the
16 notice required by this paragraph is given.
17 (2) Within 48 hours after receiving notice pursuant to
18 paragraph (1), the property owner may notify the state agency of
19 any condition on the agency’s entry upon the property, which may
20 include, but not be limited to, any of the following:
21 (A) That entry upon the property be postponed for up to five
22 days from the date requested by the agency.
23 (B) That the property owner accompany the state agency when
24 it enters the property.
25 (C) That access to the property be limited to existing roads or
26 other access points designated by the property owner.
27 (3) For purposes of paragraph (1), a state agency shall obtain
28 consent by executing an entry permit that does all of the following:
29 (A) Requires the agency to exercise reasonable precautions to
30 avoid damage and to protect persons and property.
31 (B) Provides that the property owner assumes no liability for
32 any loss or damage to property or injuries to or deaths of agents,
33 contractors, or employees of the property owner caused by the
34 agency’s exercise of privileges granted in the permit.



1 (C) Provides that nothing in the permit precludes the property
2 owner from filing a claim with the State Board of Control for any
3 loss or expense that the property owner or its tenant may suffer
4 caused by or due to exercise by the agency of the privileges granted
5 by the permit.

6 (D) Provides that the agency agrees to indemnify and hold the
7 property owner harmless from any damage caused by the agency's
8 activities authorized by the permit and to reimburse the property
9 owner for any damage to roads and fences, or other property
10 caused by the agency's activities that are authorized by the permit.

11 (d) A state agency shall do all of the following when entering
12 private property:

13 (1) Comply with any reasonable condition of entry that the
14 property owner may establish.

15 (2) Comply with all applicable environmental laws and
16 regulations while conducting work on the property.

17 (3) Carry current official photo identification and present it at
18 any time at the property owner's request.

19 (4) Document the date and time of entry upon and departure
20 from the property.

21 (5) Provide the property owner with the name, title, business
22 address, and business telephone number of each person entering
23 the property prior to entrance.

24 (6) Notify the property owner of the number of vehicles and the
25 license plate number of each vehicle prior to entrance.

26 (7) Obtain approval of the property owner each time a
27 motorized vehicle other than a conventional truck or automobile
28 enters the property.

29 (8) Provide a daily report to the property owner regarding any
30 activity that the state agency surveyed or conducted on the
31 property.

32 (9) Provide the property owner, within 10 days after the final
33 departure from the property, a written report that includes the
34 findings of any survey or activity conducted on the property.

35 (10) Provide the property owner with any report regarding any
36 survey or activity conducted on the property that is finalized after
37 the 10-day report under paragraph (9) is provided.

38 (11) Confine its observations, investigations, or other activity
39 to the original purpose for which entry is sought.



1 (12) Provide the property owner reasonable compensation for
2 any time the property owner spends accompanying the state
3 agency on the property.

4 (13) Provide the property owner with compensation for any
5 damages caused by the state agency's entry upon the property or
6 by violation of this section.

7 (e) The property owner shall immediately notify the
8 appropriate authority within the state agency if the state agency
9 violates any of the requirements of this section. The state agency
10 shall respond to the property owner's concerns within 48 hours,
11 during which time the property owner may deny the state agency
12 access to the property. If the property owner is not satisfied with
13 the agency's response to his or her concerns, then the property
14 owner may deny the state agency access to the property.

15 (f) This section shall not apply to the entry upon private
16 property by a law enforcement or other appropriate agency in
17 response to an emergency situation involving a violent crime or an
18 immediate threat to human life.

