A person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances.

## USE NOTE

The definition of enter or remain unlawfully includes the concept that the defendant is not otherwise privileged to enter or remain. The legislature has not stated how the concept of privilege is to be considered.

Alaska courts have not yet interpreted this provision. Courts from other jurisdictions have considered the issue. SeeState v. Knight, 791 A.2d 110, 115-116 (Maine 2002); People v. Dailey, 330 N.Y.S.2d 899 (N.Y. Ct. 1972); State v. Newell, 639 N.E.2d 513 (Ohio App. 1994); cf.State v. Finley, 982 P.2d 681 (Wash. App. 1999).