

By: Casteel

H.B. No. 489

Substitute the following for H.B. No. 489:

By: Keel

C.S.H.B. No. 489

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution and punishment of the offense of
3 criminal trespass.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 30.05(b), Penal Code, is amended by
6 adding Subdivision (7) to read as follows:

7 (7) "Residential land" means real property improved by
8 a dwelling and zoned for or otherwise authorized for single-family
9 or multifamily use.

10 SECTION 2. Section 30.05, Penal Code, is amended by
11 amending Subsections (c) and (d) and adding Subsection (g) to read
12 as follows:

13 (c) It is a defense to prosecution under this section that
14 the actor at the time of the offense was:

15 (1) a fire fighter or emergency medical services
16 personnel, as ~~[that term is]~~ defined by Section 773.003, Health and
17 Safety Code, acting in the lawful discharge of an official duty
18 under exigent circumstances; or

19 (2) an employee of an electric utility, as defined by
20 Section 31.002, Utilities Code, or an employee of a gas utility, as
21 defined by Section 101.003 or 121.001, Utilities Code, who was
22 performing a duty within the scope of employment.

23 (d) An offense under Subsection (e) is a Class C misdemeanor
24 unless it is committed in a habitation or unless the actor carries a

1 deadly weapon on or about the actor's person during the commission
2 of the offense, in which event it is a Class A misdemeanor. An
3 offense under Subsection (g) is a Class C misdemeanor unless it is
4 committed in a building or habitation or unless the actor carries a
5 deadly weapon on or about the actor's person during the commission
6 of the offense, in which event it is a Class A misdemeanor. An
7 offense under Subsection (a) is a Class B misdemeanor, except that
8 the offense is a Class A misdemeanor if:

9 (1) the offense is committed:

10 (A) in a habitation or a shelter center; or

11 (B) on a Superfund site; or

12 (2) the actor carries a deadly weapon on or about his
13 person during the commission of the offense.

14 (g) A person commits an offense if without express consent
15 or if without authorization provided by any law, whether in writing
16 or other form, the person:

17 (1) enters or remains on residential land of another;

18 and

19 (2) had notice that the entry was forbidden or
20 received notice to depart but failed to do so.

21 SECTION 3. (a) The change in law made by this Act applies
22 only to an offense committed on or after the effective date of this
23 Act. For purposes of this section, an offense is committed before
24 the effective date of this Act if any element of the offense occurs
25 before the effective date.

26 (b) An offense committed before the effective date of this
27 Act is covered by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2005.