

By: Miller of Comal, Fletcher

H.B. No. 2609

A BILL TO BE ENTITLED

1 AN ACT

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(a), Penal Code, is amended to read
6 as follows:

7 (a) A person commits an offense if the person [~~he~~] enters or
8 remains on or in property of another, including residential land,
9 agricultural land, a recreational vehicle park, a building, or an
10 aircraft or other vehicle, [of another] without effective consent
11 [~~or he enters or remains in a building of another without effective~~
12 ~~consent~~] and the person [~~he~~]:

13 (1) had notice that the entry was forbidden; or

14 (2) received notice to depart but failed to do so.

15 SECTION 2. Section 30.05(b), Penal Code, is amended by
16 adding Subdivisions (8), (9), and (10) to read as follows:

17 (8) "Protected freshwater area" has the meaning
18 assigned by Section 90.001, Parks and Wildlife Code.

19 (9) "Recreational vehicle park" means a tract of land
20 that has rental spaces for two or more recreational vehicles, as
21 defined by Section 522.004, Transportation Code.

22 (10) "Residential land" means real property improved
23 by a dwelling and zoned for or otherwise authorized for
24 single-family or multifamily use.

1 SECTION 3. Sections 30.05(c) and (d), Penal Code, are
2 amended to read as follows:

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

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

9 (2) an employee or agent of an electric utility, as
10 defined by Section 31.002, Utilities Code, or an employee or agent
11 of a gas utility, as defined by Section 101.003 or 121.001,
12 Utilities Code, or of a pipeline used for the transportation of oil,
13 gas, or the products thereof or carbon dioxide, who was performing a
14 duty within the scope of employment or agency; or

15 (3) a person who was:

16 (A) employed by or acting as agent for an entity
17 that had, or that the person reasonably believed had, effective
18 consent or authorization provided by law to enter the property; and

19 (B) performing a duty within the scope of that
20 employment or agency.

21 (d) An offense under this section [~~Subsection (c) is a Class~~
22 ~~C misdemeanor unless it is committed in a habitation or unless the~~
23 ~~actor carries a deadly weapon on or about the actor's person during~~
24 ~~the commission of the offense, in which event it is a Class A~~
25 ~~misdemeanor. An offense under Subsection (a)] is:~~

26 (1) a Class B misdemeanor, except as provided by
27 Subdivisions (2) and (3);

1 (2) a Class C misdemeanor, except as provided by
2 Subdivision (3), if the offense is committed:

3 (A) on agricultural land and within 100 feet of
4 the boundary of the land; or

5 (B) on residential land and within 100 feet of a
6 protected freshwater area; and

7 (3) [~~that the offense is~~] a Class A misdemeanor if:

8 (A) [~~(1)~~] the offense is committed:

9 (i) [~~(A)~~] in a habitation or a shelter
10 center;

11 (ii) [~~(B)~~] on a Superfund site; or

12 (iii) [~~(C)~~] on or in a critical
13 infrastructure facility; or

14 (B) [~~(2)~~] the person [~~actor~~] carries a deadly
15 weapon [~~on or about his person~~] during the commission of the
16 offense.

17 SECTION 4. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 covered by the law in effect when the offense was committed, and the
21 former law is continued in effect for that purpose. For purposes of
22 this section, an offense was committed before the effective date of
23 this Act if any element of the offense was committed before that
24 date.

25 SECTION 5. This Act takes effect September 1, 2009.