

AN ACT

relating to the prosecution and punishment of the offense of criminal trespass.

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

SECTION 1. Subsection (a), Section 30.05, Penal Code, is amended to read as follows:

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

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

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

SECTION 2. Subsection (b), Section 30.05, Penal Code, is amended by adding Subdivisions (8), (9), (10), and (11) to read as follows:

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

(9) "Recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(A) has firearm proficiency requirements for

1 peace officers; and

2 (B) fully recognizes the right of peace officers  
3 commissioned in this state to carry weapons in the other state.

4 (10) "Recreational vehicle park" means a tract of land  
5 that has rental spaces for two or more recreational vehicles, as  
6 defined by Section 522.004, Transportation Code.

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

10 SECTION 3. Subsections (d) and (e), Section 30.05, Penal  
11 Code, are amended to read as follows:

12 (d) An offense under this section [~~Subsection (e) is a Class~~  
13 ~~C misdemeanor unless it is committed in a habitation or unless the~~  
14 ~~actor carries a deadly weapon on or about the actor's person during~~  
15 ~~the commission of the offense, in which event it is a Class A~~  
16 ~~misdemeanor. An offense under Subsection (a)] is:~~

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

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

21 (A) on agricultural land and within 100 feet of  
22 the boundary of the land; or

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

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

26 (A) [(1)] the offense is committed:

27 (i) [(A)] in a habitation or a shelter

1 center;

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

3 (iii) [~~(C)~~] on or in a critical  
4 infrastructure facility; or

5 (B) [~~(2)~~] the person [~~actor~~] carries a deadly  
6 weapon [~~on or about his person~~] during the commission of the  
7 offense.

8 (e) It is a defense to prosecution under this section that  
9 the actor at the time of the offense was [~~A person commits an~~  
10 ~~offense if without express consent or if without authorization~~  
11 ~~provided by any law, whether in writing or other form, the person~~]:

12 (1) a firefighter or emergency medical services  
13 personnel, as defined by Section 773.003, Health and Safety Code,  
14 acting in the lawful discharge of an official duty under exigent  
15 circumstances [~~enters or remains on agricultural land of another~~];

16 (2) a person who was:

17 (A) an employee or agent of:

18 (i) an electric utility, as defined by  
19 Section 31.002, Utilities Code;

20 (ii) a telecommunications provider, as  
21 defined by Section 51.002, Utilities Code;

22 (iii) a video service provider or cable  
23 service provider, as defined by Section 66.002, Utilities Code;

24 (iv) a gas utility, as defined by Section  
25 101.003 or 121.001, Utilities Code; or

26 (v) a pipeline used for the transportation  
27 or sale of oil, gas, or related products; and

1                    (B) performing a duty within the scope of that  
2 employment or agency; or

3                    (3) a person who was:

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

7                    (B) performing a duty within the scope of that  
8 employment or agency [~~is on the agricultural land and within 100~~  
9 ~~feet of the boundary of the land when apprehended; and~~

10                    [~~(3) had notice that the entry was forbidden or~~  
11 ~~received notice to depart but failed to do so~~].

12                    SECTION 4. Subsections (c) and (j), Section 30.05, Penal  
13 Code, are repealed.

14                    SECTION 5. The change in law made by this Act applies only  
15 to an offense committed on or after the effective date of this Act.  
16 An offense committed before the effective date of this Act is  
17 covered by the law in effect when the offense was committed, and the  
18 former law is continued in effect for that purpose. For purposes of  
19 this section, an offense was committed before the effective date of  
20 this Act if any element of the offense was committed before that  
21 date.

22                    SECTION 6. This Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2609 was passed by the House on May 13, 2009, by the following vote: Yeas 140, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2609 on May 29, 2009, by the following vote: Yeas 142, Nays 1, 3 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2609 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor