

By: Miller of Comal

H.B. No. 2609

Substitute the following for H.B. No. 2609:

By: Fletcher

C.S.H.B. No. 2609

A BILL TO BE ENTITLED

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. Section 30.05(a), 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. Section 30.05(b), Penal Code, is amended by adding Subdivisions (8) and (9) to read as follows:

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

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

SECTION 3. Section 30.05, Penal Code, is amended by amending Subsections (c) and (d) and adding Subsection (k) to read

1 as follows:

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

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

8 (2) an employee or agent of an electric utility, as
9 defined by Section 31.002, Utilities Code, or an employee or agent
10 of a gas utility, as defined by Section 101.003 or 121.001,
11 Utilities Code, who was performing a duty within the scope of
12 employment or agency; or

13 (3) a person who was:

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

17 (B) performing a duty within the scope of that
18 employment or agency.

19 (d) An offense under Subsection (e) is a Class C misdemeanor
20 unless it is committed in a habitation or unless the actor carries a
21 deadly weapon on or about the actor's person during the commission
22 of the offense, in which event it is a Class A misdemeanor. An
23 offense under Subsection (k) is a Class C misdemeanor unless it is
24 committed in a building or habitation or unless the actor carries a
25 deadly weapon on or about the actor's person during the commission
26 of the offense, in which event it is a Class A misdemeanor. An
27 offense under Subsection (a) is a Class C [~~B~~] misdemeanor, except

1 that the offense is:

2 (1) a Class B misdemeanor if it is shown on the trial
3 of the offense that the defendant has been previously convicted of
4 an offense under this section; and

5 (2) a Class A misdemeanor if:

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

7 (i) [~~(A)~~] in a habitation or a shelter
8 center;

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

10 (iii) [~~(C)~~] on or in a critical
11 infrastructure facility; or

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

14 (k) 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 4. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 covered by the law in effect when the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense was committed before that

1 date.

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