

1-1 By: Miller of Comal, Fletcher H.B. No. 2609  
1-2 (Senate Sponsor - Wentworth)  
1-3 (In the Senate - Received from the House May 14, 2009;  
1-4 May 15, 2009, read first time and referred to Committee on  
1-5 Administration; May 22, 2009, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 4, Nays 0;  
1-7 May 22, 2009, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 2609 By: Wentworth

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to the prosecution and punishment of the offense of  
1-12 criminal trespass.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (a), Section 30.05, Penal Code, is  
1-15 amended to read as follows:

1-16 (a) A person commits an offense if the person [~~he~~] enters or  
1-17 remains on or in property of another, including residential land,  
1-18 agricultural land, a recreational vehicle park, a building, or an  
1-19 aircraft or other vehicle, [~~of another~~] without effective consent  
1-20 [~~or he enters or remains in a building of another without effective~~  
1-21 ~~consent~~] and the person [~~he~~]:

1-22 (1) had notice that the entry was forbidden; or

1-23 (2) received notice to depart but failed to do so.

1-24 SECTION 2. Subsection (b), Section 30.05, Penal Code, is  
1-25 amended by adding Subdivisions (8), (9), (10), and (11) to read as  
1-26 follows:

1-27 (8) "Protected freshwater area" has the meaning  
1-28 assigned by Section 90.001, Parks and Wildlife Code.

1-29 (9) "Recognized state" means another state with which  
1-30 the attorney general of this state, with the approval of the  
1-31 governor of this state, negotiated an agreement after determining  
1-32 that the other state:

1-33 (A) has firearm proficiency requirements for  
1-34 peace officers; and

1-35 (B) fully recognizes the right of peace officers  
1-36 commissioned in this state to carry weapons in the other state.

1-37 (10) "Recreational vehicle park" means a tract of land  
1-38 that has rental spaces for two or more recreational vehicles, as  
1-39 defined by Section 522.004, Transportation Code.

1-40 (11) "Residential land" means real property improved  
1-41 by a dwelling and zoned for or otherwise authorized for  
1-42 single-family or multifamily use.

1-43 SECTION 3. Subsections (d) and (e), Section 30.05, Penal  
1-44 Code, are amended to read as follows:

1-45 (d) An offense under this section [~~Subsection (e) is a Class~~  
1-46 ~~C misdemeanor unless it is committed in a habitation or unless the~~  
1-47 ~~actor carries a deadly weapon on or about the actor's person during~~  
1-48 ~~the commission of the offense, in which event it is a Class A~~  
1-49 ~~misdemeanor. An offense under Subsection (a)] is:~~

1-50 (1) a Class B misdemeanor, except as provided by  
1-51 Subdivisions (2) and (3);

1-52 (2) a Class C misdemeanor, except as provided by  
1-53 Subdivision (3), if the offense is committed:

1-54 (A) on agricultural land and within 100 feet of  
1-55 the boundary of the land; or

1-56 (B) on residential land and within 100 feet of a  
1-57 protected freshwater area; and

1-58 (3) [~~that the offense is~~] a Class A misdemeanor if:

1-59 (A) [~~(1)~~] the offense is committed:

1-60 (i) [~~(A)~~] in a habitation or a shelter  
1-61 center;

1-62 (ii) [~~(B)~~] on a Superfund site; or

1-63 (iii) [~~(C)~~] on or in a critical

2-1 infrastructure facility; or  
2-2 (B) ~~[(2)]~~ the person ~~[actor]~~ carries a deadly  
2-3 weapon ~~[on or about his person]~~ during the commission of the  
2-4 offense.

2-5 (e) It is a defense to prosecution under this section that  
2-6 the actor at the time of the offense was ~~[A person commits an~~  
2-7 ~~offense if without express consent or if without authorization~~  
2-8 ~~provided by any law, whether in writing or other form, the person]:~~

2-9 (1) a firefighter or emergency medical services  
2-10 personnel, as defined by Section 773.003, Health and Safety Code,  
2-11 acting in the lawful discharge of an official duty under exigent  
2-12 circumstances ~~[enters or remains on agricultural land of another];~~

2-13 (2) a person who was:

2-14 (A) an employee or agent of:

2-15 (i) an electric utility, as defined by  
2-16 Section 31.002, Utilities Code;

2-17 (ii) a telecommunications provider, as  
2-18 defined by Section 51.002, Utilities Code;

2-19 (iii) a video service provider or cable  
2-20 service provider, as defined by Section 66.002, Utilities Code;

2-21 (iv) a gas utility, as defined by Section  
2-22 101.003 or 121.001, Utilities Code; or

2-23 (v) a pipeline used for the transportation  
2-24 or sale of oil, gas, or related products; and

2-25 (B) performing a duty within the scope of that  
2-26 employment or agency; or

2-27 (3) a person who was:

2-28 (A) employed by or acting as agent for an entity  
2-29 that had, or that the person reasonably believed had, effective  
2-30 consent or authorization provided by law to enter the property; and

2-31 (B) performing a duty within the scope of that  
2-32 employment or agency ~~[is on the agricultural land and within 100~~  
2-33 ~~feet of the boundary of the land when apprehended; and~~

2-34 ~~[(3) had notice that the entry was forbidden or~~  
2-35 ~~received notice to depart but failed to do so].~~

2-36 SECTION 4. Subsections (c) and (j), Section 30.05, Penal  
2-37 Code, are repealed.

2-38 SECTION 5. The change in law made by this Act applies only  
2-39 to an offense committed on or after the effective date of this Act.  
2-40 An offense committed before the effective date of this Act is  
2-41 covered by the law in effect when the offense was committed, and the  
2-42 former law is continued in effect for that purpose. For purposes of  
2-43 this section, an offense was committed before the effective date of  
2-44 this Act if any element of the offense was committed before that  
2-45 date.

2-46 SECTION 6. This Act takes effect September 1, 2009.

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