

By: Wentworth

S.B. No. 2094

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), (9), and (10) to read as follows:

(8) "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 peace officers; and

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

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

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

7 SECTION 3. Sections 30.05(d) and (e), Penal Code, are
8 amended to read as follows:

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

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

18 (2) a Class A misdemeanor if:

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

20 (i) [~~(A)~~] in a habitation or a shelter
21 center;

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

23 (iii) [~~(C)~~] on or in a critical
24 infrastructure facility; or

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

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

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

10 (2) a person who was:

11 (A) employed by or acting as agent for an entity,
12 including an electric utility, as defined by Section 31.002,
13 Utilities Code, or a gas utility, as defined by Section 101.003 or
14 121.001, Utilities Code, that had, or that the person reasonably
15 believed had, effective consent or authorization provided by law to
16 enter the property; and

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

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

22 SECTION 4. Sections 30.05(c) and (j), Penal Code, are
23 repealed.

24 SECTION 5. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 covered by the law in effect when the offense was committed, and the

1 former law is continued in effect for that purpose. For purposes of
2 this section, an offense was committed before the effective date of
3 this Act if any element of the offense was committed before that
4 date.

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