

**House Bill 2609**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

(9) "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.

SENATE VERSION

Same as House version.

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 peace officers; and

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

(10) "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

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

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

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

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

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

(3) a person who was:

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

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

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Code.

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

SECTION 4. **Subsections (c), Penal Code, is repealed**

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

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

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

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

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

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

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

(A) [(+) the offense is committed:

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

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

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

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

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

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

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

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

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

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

(A) [(+) the offense is committed:

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

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

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

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

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

(1) a firefighter or emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official

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~~duty under exigent circumstances [enters or remains on agricultural land of another];~~

~~(2) a person who was:~~

~~(A) an employee or agent of:~~

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

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

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

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

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

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

~~(3) a person who was:~~

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

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

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

Subsection (j), Section 30.05, Penal Code is repealed.

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

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

SENATE VERSION

SECTION 5. Same as House version.

SECTION 6. Same as House version.

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