

By: Wentworth

S.B. No. 1391

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(b), Penal Code, is amended by adding Subdivision (8) to read as follows:

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

SECTION 2. Section 30.05, Penal Code, is amended by amending Subsections (c) and (d) and adding Subsection (k) 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, who was performing a duty within the scope of employment or agency; or

(3) a person who was:

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

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

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

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

19           (2) a Class A misdemeanor if:

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

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

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

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

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

1        (k) A person commits an offense if without express consent  
2 or if without authorization provided by any law, whether in writing  
3 or other form, the person:

4                (1) enters or remains on residential land of another;  
5 and

6                (2) had notice that the entry was forbidden or  
7 received notice to depart but failed to do so.

8        SECTION 3. The change in law made by this Act applies only  
9 to an offense committed on or after the effective date of this Act.  
10 An offense committed before the effective date of this Act is  
11 covered by the law in effect when the offense was committed, and the  
12 former law is continued in effect for that purpose. For purposes of  
13 this section, an offense was committed before the effective date of  
14 this Act if any element of the offense was committed before that  
15 date.

16        SECTION 4. This Act takes effect September 1, 2009.