

PENAL CODE

CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS

Sec. 30.01. DEFINITIONS. In this chapter:

(1) "Habitation" means a structure or vehicle that is adapted for the overnight accommodation of persons, and includes:

(A) each separately secured or occupied portion of the structure or vehicle; and

(B) each structure appurtenant to or connected with the structure or vehicle.

(2) "Building" means any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use.

(3) "Vehicle" includes any device in, on, or by which any person or property is or may be propelled, moved, or drawn in the normal course of commerce or transportation, except such devices as are classified as "habitation."

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 30.02. BURGLARY. (a) A person commits an offense if, without the effective consent of the owner, the person:

(1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or

(2) remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or

(3) enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) Except as provided in Subsection (d), an offense under this section is a:

(1) state jail felony if committed in a building other than a habitation; or

(2) felony of the second degree if committed in a habitation.

(d) An offense under this section is a felony of the first degree if:

(1) the premises are a habitation; and

(2) any party to the offense entered the habitation with intent to commit a felony other than felony theft or committed or attempted to commit a felony other than felony theft.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 727, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.03. BURGLARY OF COIN-OPERATED OR COIN COLLECTION MACHINES. (a) A person commits an offense if, without the effective consent of the owner, he breaks or enters into any coin-operated machine, coin collection machine, or other coin-operated or coin collection receptacle, contrivance, apparatus, or equipment used for the purpose of providing lawful amusement, sales of goods, services, or other valuable things, or telecommunications with intent to obtain property or services.

(b) For purposes of this section, "entry" includes every kind of entry except one made with the effective consent of the owner.

(c) An offense under this section is a Class A misdemeanor. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 62, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 30.04. BURGLARY OF VEHICLES. (a) A person commits an offense if, without the effective consent of the owner, he breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) For purposes of this section, a container or trailer carried on a rail car is a part of the rail car.

(d) An offense under this section is a Class A misdemeanor unless the vehicle or part of the vehicle broken into or entered is a rail car, in which event the offense is a state jail felony.

(e) It is a defense to prosecution under this section that

the actor entered a rail car or any part of a rail car and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.). Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 916, Sec. 1, eff. Sept. 1, 1999.

Sec. 30.05. CRIMINAL TRESPASS. (a) A person commits an offense if he enters or remains on or in property, including an aircraft or other vehicle, of another without effective consent or he enters or remains in a building of another without effective consent and he:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:
  - (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
  - (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
  - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
  - (D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

- (i) vertical lines of not less than eight inches in length and not less than one inch in width;

- (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and

- (iii) placed at locations that are readily visible to any person approaching the property and no more than:

- (a) 100 feet apart on forest land; or

- (b) 1,000 feet apart on land other than forest land; or

- (E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.

- (3) "Shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

- (4) "Forest land" means land on which the trees are potentially valuable for timber products.

- (5) "Agricultural land" has the meaning assigned by Section 75.001, Civil Practice and Remedies Code.

- (6) "Superfund site" means a facility that:

- (A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or

- (B) is listed on the state registry established under Section 361.181, Health and Safety Code.

- (7) "Critical infrastructure facility" means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders:

- (A) a chemical manufacturing facility;

- (B) a refinery;

- (C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;

- (D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

- (E) a natural gas transmission compressor station;

- (F) a liquid natural gas terminal or storage facility;

- (G) a telecommunications central switching office;

- (H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

- (I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; or

- (J) a transmission facility used by a federally

licensed radio or television station.

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

(d) An offense under 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 a Class B misdemeanor, except that the offense is a Class A misdemeanor if:

- (1) the offense is committed:
  - (A) in a habitation or a shelter center;
  - (B) on a Superfund site; or
  - (C) on or in a critical infrastructure facility;

or

(2) the actor carries a deadly weapon on or about his person during the commission of the offense.

(e) 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) enters or remains on agricultural land of another;
- (2) 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.

(f) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and

(2) the person was carrying a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun of the same category the person was carrying.

Text of subsec. (g) as added by Acts 2005, 79th Leg., ch. 1093.

(g) This section does not apply if:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and

(2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2.122, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

Text of subsec. (g) as added by Acts 2005, 79th Leg., ch. 1337.

(g) It is a defense to prosecution under this section that the actor entered a railroad switching yard or any part of a railroad switching yard and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

Text of subsec. (h) as added by Acts 2005, 79th Leg., ch. 1093.

(h) For purposes of Subsection (g), "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:

(1) has firearm proficiency requirements for peace officers; and

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

Text of subsec. (h) as added by Acts 2005, 79th Leg., ch. 1337.

(h) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(1)(C), the defendant may raise the issue as to whether the defendant entered or remained on or in a critical infrastructure facility as part of a peaceful or lawful assembly, including an attempt to exercise rights guaranteed by state or federal labor laws. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(1)(C) does not apply.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, Sec. 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2385, ch. 596, Sec. 1, eff. Sept. 1, 1981; Acts 1989, 71st Leg., ch. 139, Sec. 1, eff. Sept. 1, 1989;

Acts 1991, 72nd Leg., ch. 308, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 24, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 1229, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 161, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 169, Sec. 1, 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 765, Sec. 1, 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 16.002, 21.001(94), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1078, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1178, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14B.001, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1093, Sec. 3, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1337, Sec. 20, 21, eff. June 18, 2005.

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that:

(A) entry on the property by a license holder with a concealed handgun was forbidden; or

(B) remaining on the property with a concealed handgun was forbidden and failed to depart.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

(d) An offense under this section is a Class A misdemeanor.

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Added by Acts 1997, 75th Leg., ch. 1261, Sec. 23, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.24, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1178, Sec. 2, eff. Sept. 1, 2003.