

Title 18 - CRIMES AND OFFENSES

Chapter 35 - Burglary and Other Criminal Intrusion

3503 - Criminal trespass.

§ 3503. Criminal trespass.

(a) Buildings and occupied structures.--

(1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he:

(i) enters, gains entry by subterfuge or surreptitiously remains in any building or occupied structure or separately secured or occupied portion thereof; or

(ii) breaks into any building or occupied structure or separately secured or occupied portion thereof.

(2) An offense under paragraph (1)(i) is a felony of the third degree, and an offense under paragraph (1)(ii) is a felony of the second degree.

(3) As used in this subsection:

"Breaks into." To gain entry by force, breaking, intimidation, unauthorized opening of locks, or through an opening not designed for human access.

(b) Defiant trespasser.--

(1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(i) actual communication to the actor;

(ii) posting in a manner prescribed by law or reasonably likely to come to the attention of intruders;

(iii) fencing or other enclosure manifestly designed to exclude intruders;

(iv) notices posted in a manner prescribed by law or reasonably likely to come to the person's attention at each entrance of school grounds that visitors are prohibited without authorization from a designated school, center or program official;

(v) an actual communication to the actor to leave school grounds as communicated by a school, center or program official, employee or agent or a law enforcement officer; or

(vi) subject to paragraph (3), the placement of identifying purple paint marks on trees or posts on the property which are:

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

(B) placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground; and

(C) placed at locations that are readily visible to a person approaching the property and no more than 100 feet apart.

(2) Except as provided in paragraph (1)(v), an offense under this subsection constitutes a misdemeanor of the third degree if the offender defies an order to leave personally communicated to him by the owner of the premises or other authorized person. An offense under paragraph (1)(v) constitutes a misdemeanor of the first degree. Otherwise it is a summary offense.

(3) Paragraph (1)(vi) shall not apply in a county of the first class or a county of the second class.

(b.1) Simple trespasser.--

(1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place for the purpose of:

- (i) threatening or terrorizing the owner or occupant of the premises;
- (ii) starting or causing to be started any fire upon the premises; or
- (iii) defacing or damaging the premises.

(2) An offense under this subsection constitutes a summary offense.

(b.2) Agricultural trespasser.--

(1) A person commits an offense if knowing that he is not licensed or privileged to do so he:

- (i) enters or remains on any agricultural or other open lands when such lands are posted in a manner prescribed by law or reasonably likely to come to the person's attention or are fenced or enclosed in a manner manifestly designed to exclude trespassers or to confine domestic animals; or
- (ii) enters or remains on any agricultural or other open lands and defies an order not to enter or to leave that has been personally communicated to him by the owner of the lands or other authorized person.

(2) An offense under this subsection shall be graded as follows:

(i) An offense under paragraph (1)(i) constitutes a misdemeanor of the third degree and is punishable by imprisonment for a term of not more than one year and a fine of not less than \$250.

(ii) An offense under paragraph (1)(ii) constitutes a misdemeanor of the second degree and is punishable by imprisonment for a term of not more than two years and a fine of not less than \$500 nor more than \$5,000.

(3) For the purposes of this subsection, the phrase "agricultural or other open lands" shall mean any land on which agricultural activity or farming as defined in section 3309 (relating to agricultural vandalism) is conducted or any land populated by forest trees of any size and capable of producing timber or other wood products or any other land in an agricultural security area as defined in the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, or any area zoned for agricultural use.

(b.3) Agricultural biosecurity area trespasser.--

(1) A person commits an offense if the person does any of the following:

- (i) Enters an agricultural biosecurity area, knowing that the person is not licensed or privileged to do so.
- (ii) Knowingly or recklessly fails to perform reasonable measures for biosecurity that by posted notice are required to be performed for entry to the agricultural biosecurity area.

(2) It is a defense to prosecution under paragraph (1)(ii) that:

- (i) no reasonable means or method was available to perform the measures that the posted notice required to be performed for entry to the agricultural biosecurity area;
- (ii) entry is made in response to a condition within the agricultural biosecurity area that the person reasonably believes to be a serious threat to human or

animal health as necessitating immediate entry to the agricultural biosecurity area; or

(iii) entry is made under exigent circumstances by a law enforcement officer to:

(A) pursue and apprehend a suspect of criminal conduct reasonably believed by the officer to be present within the agricultural biosecurity area; or

(B) prevent the destruction of evidence of criminal conduct reasonably believed by the officer to be located within the agricultural biosecurity area.

(3) (i) Except as set forth in subparagraph (iii), an offense under paragraph (1)(i) constitutes a misdemeanor of the third degree.

(ii) Except as set forth in subparagraph (iii), an offense under paragraph (1)(ii) constitutes a summary offense.

(iii) If an offense under paragraph (1) causes damage to or death of an animal or plant within an agricultural biosecurity area, the offense constitutes a misdemeanor of the first degree.

(4) For purposes of this subsection, the terms "agricultural biosecurity area" and "posted notice" shall have the meanings given to them in 3 Pa.C.S. § 2303 (relating to definitions).

(c) Defenses.--It is a defense to prosecution under this section that:

(1) a building or occupied structure involved in an offense under subsection (a) of this section was abandoned;

(2) the premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

(3) the actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain.

(c.1) Applicability.--This section shall not apply to an unarmed person who enters onto posted property for the sole purpose of retrieving a hunting dog.

(d) Definition.--As used in this section, the term "school grounds" means any building of or grounds of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education, any elementary or secondary parochial school, any certified day-care center or any licensed preschool program. (June 23, 1978, P.L.497, No.76, eff. 60 days; Oct. 27, 1995, P.L.334, No.53, eff. 60 days; Dec. 3, 1998, P.L.933, No.121, eff. imd.; Oct. 2, 2002, P.L.806, No.116, eff. imd.; Nov. 23, 2010, P.L.1360, No.125, eff. imd.; Nov. 6, 2014, P.L.2921, No.192, eff. 60 days; Nov. 27, 2019, P.L.714, No.103, eff. 60 days)

2019 Amendment. Act 103 amended subsec. (b)(1) and added subsecs. (b)(3) and (c.1).

2016 Unconstitutionality. Act 192 of 2014 was declared unconstitutional. *Leach v. Commonwealth*, 141 A.3d 426 (Pa. 2016). The Legislative Reference Bureau effectuated the 2016 unconstitutionality.

2014 Amendment. Act 192 amended subsecs. (b.1) and (d).

2010 Amendment. Act 125 added subsec. (b.3).

2002 Amendment. Act 116 amended subsec. (b) and added subsec. (d).

1998 Amendment. Act 121 added subsec. (b.2).

1978 Amendment. Act 76 amended subsec. (a).

Cross References. Section 3503 is referred to in sections 2710, 3019, 3311, 6105 of this title; section 2303 of Title 3 (Agriculture); sections 3573, 6328 of Title 42 (Judiciary and Judicial Procedure).

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