

## Part 2 Burglary and Criminal Trespass

### 76-6-201 Definitions.

As used in this part:

- (1)
  - (a) "Building," in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for overnight accommodation of persons or for carrying on business and includes:
    - (i) each separately secured or occupied portion of the structure or vehicle; and
    - (ii) each structure appurtenant to or connected with the structure or vehicle.
  - (b) "Building" does not include a railroad car.
- (2) "Dwelling" means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present.
- (3) "Enter or remain unlawfully" means a person enters or remains in or on any premises when:
  - (a) at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and
  - (b) the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises.
- (4) "Enter" means:
  - (a) intrusion of any part of the body; or
  - (b) intrusion of any physical object under control of the actor.
- (5) "Railroad car":
  - (a) in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on a railroad car; and
  - (b) includes only a railroad car that is operable and part of an ongoing railroad operation.

Amended by Chapter 366, 2008 General Session

### 76-6-202 Burglary.

- (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- (2) An actor commits burglary if the actor enters or remains unlawfully in a building or any portion of a building with intent to commit:
  - (a) a felony;
  - (b) theft;
  - (c) an assault on any person;
  - (d) lewdness, in violation of Section 76-9-702;
  - (e) sexual battery, in violation of Section 76-9-702.1;
  - (f) lewdness involving a child, in violation of Section 76-9-702.5; or
  - (g) voyeurism, in violation of Section 76-9-702.7.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) A violation of Subsection (2) is a second degree felony if the violation is committed in a dwelling.
- (4) A violation of this section is a separate offense from any of the offenses listed in Subsections (2)(a) through (g), and which may be committed by the actor while in the building.

Amended by Chapter 111, 2023 General Session

**76-6-202.2 Interruption of a connected service in the commission of a burglary.**

- (1)
  - (a) As used in this section:
    - (i) "Burglary" means an offense under Section 76-6-202.
    - (ii) "Connected service" means electrical, Internet, or telephone service.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits interruption of a connected service in the commission of a burglary if, in attempting, committing, or fleeing from a burglary, the actor knowingly damages, disables, or interrupts a connected service.
- (3) A violation of Subsection (2) is a third degree felony.

Enacted by Chapter 326, 2024 General Session

**76-6-203 Aggravated burglary.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:
  - (a) causes bodily injury to any person who is not a participant in the crime;
  - (b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or
  - (c) possesses or attempts to use any explosive or dangerous weapon.
- (3) A violation of Subsection (2) is a first degree felony.

Amended by Chapter 111, 2023 General Session

**76-6-204 Burglary of a vehicle -- Charge of other offense.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits burglary of a vehicle if the actor unlawfully enters any vehicle with intent to commit a felony or theft.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) A charge against an actor for a violation of Subsection (2) does not preclude a charge for a commission of any other offense.

Amended by Chapter 111, 2023 General Session

**76-6-204.5 Burglary of a railroad car -- Charge of other offenses.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits burglary of a railroad car if the actor breaks the lock or seal on any railroad car, with the intent to commit a felony or theft.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Charging a person for a violation of Subsection (2) does not preclude charging the person for any other offense.

Amended by Chapter 111, 2023 General Session

**76-6-205 Manufacture or possession of instrument for burglary or theft.**

- (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits manufacture or possession of an instrument for burglary or theft if the actor manufactures or possesses any instrument, tool, device, article, or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that another person intends to use the same in the commission of a burglary or theft.
- (3) A violation of Subsection (2) is a class B misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-206 Criminal trespass.**

- (1)
  - (a) As used in this section:
    - (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.
    - (ii) "Graffiti" means the same as that term is defined in Section 76-6-101.
    - (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:
      - (A) the private property or any portion of the private property is not open to the public; and
      - (B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:
  - (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:
    - (i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;
    - (ii) intends to commit any crime, other than theft or a felony; or
    - (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;
  - (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:
    - (i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;
    - (ii) fencing or other enclosure obviously designed to exclude intruders; or
    - (iii) posting of signs reasonably likely to come to the attention of intruders;
  - (c) the actor enters a condominium unit in violation of Section 57-8-7(8); or
  - (d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) , (b), or (d) is a class B misdemeanor.
  - (b) The following is a class A misdemeanor:
    - (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;
    - (ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:
      - (A) lewdness under Section 76-9-702;
      - (B) lewdness involving a child under Section 76-9-702.5;

- (C) voyeurism under Section 76-9-702.7; or
- (D) loitering in a privacy space under Section 76-9-702.8; or
- (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.
- (c) A violation of Subsection (2)(c) is an infraction.
- (4) It is a defense to prosecution under this section that:
  - (a) the property was at the time open to the public; and
  - (b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.
- (5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:
  - (a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater; and
  - (b) reasonable attorney fees not to exceed \$250, and court costs.
- (6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

**76-6-206.1 Criminal trespass of abandoned or inactive mines.**

- (1)
  - (a) For purposes of this section:
    - (i) "Abandoned or inactive mine" means an underground mine which is no longer open for access or no longer under excavation and has been clearly marked as closed or protected from entry.
    - (ii) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.
    - (iii) "Enter" means intrusion of the entire body.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass of an abandoned or inactive mine if, under circumstances not amounting to burglary, the actor:
  - (a) intentionally enters and remains unlawfully in the underground workings of an abandoned or inactive mine; or
  - (b) intentionally and without authority removes, destroys, or tampers with any warning sign, covering, fencing, or other method of protection from entry placed on, around, or over any mine shaft, mine portal, or other abandoned or inactive mining excavation property.
- (3)
  - (a) A violation of Subsection (2)(a) is a class B misdemeanor.
  - (b) A violation of Subsection (2)(b) is a class A misdemeanor.

Amended by Chapter 111, 2023 General Session

**76-6-206.2 Criminal trespass on state park lands.**

- (1)
  - (a) As used in this section:
    - (i) "Authorization" means specific written permission by, or contractual agreement with, the Division of State Parks.
    - (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.
    - (iii) "Division" means the Division of State Parks created in Section 79-4-201.

- (iv) "State park lands" means all lands administered by the division.
- (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the actor:
  - (a) constructs improvements or structures on state park lands;
  - (b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;
  - (c) knowingly or intentionally uses state park lands for commercial gain;
  - (d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or
  - (e) remains, after being ordered to leave by a person with actual authority to act for the division, or by a law enforcement officer.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) A person does not commit criminal trespass if that person enters onto state park lands:
  - (a) without first paying the required fee; and
  - (b) for the sole purpose of pursuing recreational activity.
- (5)
  - (a) In addition to an order for restitution under Section 77-38b-205, an actor who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:
    - (i) damages resulting from a violation of Subsection (2);
    - (ii) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;
    - (iii) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or
    - (iv) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.
  - (b) Civil damages awarded under Subsection (5)(a):
    - (i) may be collected in a separate action by the division; and
    - (ii) shall be deposited into the State Park Fees Restricted Account as established in Section 79-4-402.

Amended by Chapter 111, 2023 General Session

**76-6-206.3 Criminal trespass on agricultural land or range land.**

- (1)
  - (a) As used in this section:
    - (i) "Agricultural or range land" and "land" mean land as defined under Subsections (1)(a)(iv) and (v).
    - (ii) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.
    - (iii) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.
    - (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.
    - (v)
      - (A) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved.

- (B) "Range land" includes land used for livestock.
- (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor commits criminal trespass on agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the actor enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:
  - (a) personal communication to the actor by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;
  - (b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or
  - (c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) In addition to an order for restitution under Section 77-38b-205, an actor who commits any violation of Subsection (2) may also be liable for:
  - (a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Amended by Chapter 111, 2023 General Session

**76-6-206.4 Criminal trespass by long-term guest to a residence.**

- (1)
  - (a) As used in this section:
    - (i) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.
    - (ii) "Long-term guest" means an individual who is not a tenant, nor the immediate family member of an owner or tenant, but who is given express or implied permission by an owner or tenant of the residence or someone with apparent authority to act for an owner or tenant to enter a portion of a residence or temporarily occupy a portion of a residence:
      - (A) for a period of time longer than 48 hours; and
      - (B) without providing the owner or tenant of the residence compensation or entering into an agreement that the individual provide labor in lieu of providing the owner or primary occupant compensation for occupying the residence.
    - (iii) "Residence" means an improvement to real property used or occupied as a primary or secondary dwelling.
    - (iv) "Tenant" means a person who has the right to occupy a residence under a rental agreement or lease, or has a tenancy by operation of law.
  - (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2)
  - (a) Except as provided in Subsection (2)(b), a long-term guest commits criminal trespass of a residence if the long-term guest, in circumstances not amounting to burglary, remains in a residence after receiving notice to leave the residence from:
    - (i) an owner;
    - (ii) a tenant; or
    - (iii) someone with apparent authority to act for an owner or a tenant.

- (b) A long-term guest does not commit criminal trespass if:
  - (i) the long-term guest has express permission to remain in the residence from a separate owner or tenant; and
  - (ii) the express permission is not:
    - (A) revoked by the owner or tenant described in Subsection (2)(b)(i); or
    - (B) rendered void under Subsection (2)(c).
- (c) The express permission described in Subsection (2)(b) is void if:
  - (i) the long-term guest or a visitor of the long-term guest:
    - (A) uses or distributes illegal drugs at the residence;
    - (B) distributes alcohol to a minor at the residence;
    - (C) commits a crime against a person or property at the residence; or
    - (D) commits a behavior that threatens or substantially endangers the security, safety, well-being, or health of other persons at the residence or threatens or damages property at the residence; or
  - (ii) the long-term guest commits a felony after occupying the residence, regardless of whether the long-term guest enters into a plea agreement for a lower offense and regardless of where the felony takes place.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) Before a law enforcement officer escorts a long-term guest from a residence for a violation of Subsection (2), the law enforcement officer shall provide the long-term guest a reasonable time for the long-term guest to collect the long-term guest's personal belongings.

Amended by Chapter 223, 2024 General Session

**76-6-206.5 Cutting, destroying, or rendering ineffective fencing of agricultural or range land.**

- (1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this section.
- (2) An actor commits cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:
  - (a) statutory damages in the amount of \$500;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Enacted by Chapter 111, 2023 General Session

**76-6-206.6 Criminal trespass on private property for recreational purposes related to use of public waters.**

- (1)
  - (a) As used in this section:
    - (i) "Bank" means the land within three feet of a public water.
    - (ii) "Private property" means the bed or bank of a non-navigable freshwater stream or river that flows through privately owned land and is privately owned.

- (iii) "Private property to which access is restricted" means the same as that term is defined in Section 73-29-102.
- (iv) "Recreational purpose" includes one or more of the following:
  - (A) hunting;
  - (B) fishing;
  - (C) swimming;
  - (D) skiing;
  - (E) snowshoeing;
  - (F) camping;
  - (G) picnicking;
  - (H) hiking;
  - (I) studying nature;
  - (J) engaging in water sports;
  - (K) mountain biking; or
  - (L) viewing or enjoying historical, archaeological, scenic, or scientific sites.
- (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.
- (2) An actor is guilty of criminal trespass if for recreational purposes, under circumstances not amounting to a greater offense, and without authorization or a right under state law:
  - (a) the actor touches or remains unlawfully on private property to which access is restricted in violation of Section 73-29-201 and:
    - (i) intends to cause annoyance or injury to a person or damage to property;
    - (ii) intends to commit a crime, other than theft or a felony; or
    - (iii) is reckless as to whether the actor's presence will cause fear for the safety of another; or
  - (b) knowing the actor's touching or presence is unlawful, the actor touches or remains on private property to which notice against entering is given by:
    - (i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;
    - (ii) fencing or other enclosure obviously designed to exclude intruders; or
    - (iii) posting of signs reasonably likely to come to the attention of intruders.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) It is a defense to prosecution under this section that:
  - (a)
    - (i) the private property was at the time open to the public; and
    - (ii) the actor complied with all lawful conditions imposed on access to or remaining on the private property;
  - (b) the actor acted in compliance with an express easement; or
  - (c) the actor touched the private property as allowed by Section 73-29-202.
- (5) In addition to an order for restitution under Section 77-38b-205, an actor who violates Subsection (2) is also liable for:
  - (a) statutory damages in the amount of the greater of:
    - (i) three times the value of damages resulting from the violation of Subsection (2); or
    - (ii) \$500;
  - (b) reasonable attorney fees not to exceed \$250; and
  - (c) court costs.
- (6) Civil damages under Subsection (5) may be collected in a separate action by the private property owner or the owner's assignee.



