

Article 22B.

First and Second Degree Trespass.

§ 14-159.11. Definition.

As used in this Article, "building" means any structure or part of a structure, other than a conveyance, enclosed so as to permit reasonable entry only through a door and roofed to protect it from the elements. (1987, c. 700, s. 1.)

§ 14-159.12. First degree trespass.

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, the person enters or remains on or in any of the following:

- (1) The premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders.
- (2) The building of another.
- (3) The lands of the Eastern Band of Cherokee Indians after the person has been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council.

(b) Except as otherwise provided in subsection (c), (d), or (f) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class I felony if all of the following circumstances exist:

- (1) The offense is committed on the premises of any of the following:
 - a. Repealed by Session Laws 2023-47, s. 2, effective December 1, 2023.
 - b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.
 - c. Repealed by Session Laws 2023-47, s. 2, effective December 1, 2023.
 - d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1.
 - e. An energy facility, as that term is defined by G.S. 14-150.2.
 - f. A facility owned by a public utility, as that term is defined under G.S. 62-3, or a unit of local government, used for the treatment of wastewater, including sewage, industrial waste, or other wastes of a liquid nature.

- (2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class G felony:

- (1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.
- (2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

(e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure.

(f) A violation of subsection (a) of this section is a Class I felony and shall include a fine of not less than one thousand dollars (\$1,000) for each violation, if any of the following circumstances exist:

- (1) The offense occurs on real property where the person has reentered after having previously been removed pursuant to the execution of a valid order or writ for possession.
- (2) The offense occurs under color of title where the person has knowingly created or provided materially false evidence of an ownership or possessory interest.
- (3) The offense is the person's second or subsequent violation of subdivision (a)(3) of this section. (1987, c. 700, s. 1; 1993, c. 539, s. 101; 1994, Ex. Sess., c. 24, s. 14(c); 2012-168, s. 1; 2014-103, s. 10(a); 2016-26, s. 1; 2018-66, s. 1; 2023-47, s. 2.)

§ 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, the person enters or remains on any of the following:

- (1) On premises of another after the person has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person.
- (2) On premises that are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.
- (3) On the curtilage of a dwelling of another between the hours of midnight and 6:00 A.M.

(b) Penalties. – A violation of subdivision (a)(1) or (a)(2) of this section is a Class 3 misdemeanor. A violation of subdivision (a)(3) of this section is a Class 2 misdemeanor. (1987, c. 700, s. 1; 1993, c. 539, s. 102; 1994, Ex. Sess., c. 24, s. 14(c); 2023-85, s. 1.)

§ 14-159.14. Lesser included offenses.

The offenses created by this act shall constitute lesser included offenses of breaking or entering as provided in G.S. 14-54 and G.S. 14-56. (1987, c. 700, s. 1.)

§§ 14-159.15 through 14-159.19. Reserved for future codification purposes.