CHAPTER 17

BURGLARY AND CRIMINAL TRESPASS

§401. Burglary

1. A person is guilty of burglary if:

A. The person enters or surreptitiously remains in a structure knowing that that person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class C crime; or [PL 2001, c. 383, §53 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The person is armed with a firearm, or knows that an accomplice is so armed. Violation of this subparagraph is a Class A crime;

(2) The person intentionally or recklessly inflicts or attempts to inflict bodily injury on anyone during the commission of the burglary or an attempt to commit the burglary or in immediate flight after the commission or attempt. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon other than a firearm or knows that an accomplice is so armed. Violation of this subparagraph is a Class B crime;

(4) The violation is against a structure that is a dwelling place. Violation of this subparagraph is a Class B crime; or

(5) At the time of the burglary, the person has 2 or more prior convictions for any combination of the Maine Class A, B or C offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section or section 651, 702 or 703; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class B crime. [PL 2007, c. 476, §21 (AMD).]

[PL 2007, c. 476, §21 (AMD).]

2.

[PL 2001, c. 383, §54 (RP); PL 2001, c. 383, §156 (AFF).]

3. A person may be convicted both of burglary and of the crime that the person committed or attempted to commit after entering or remaining in the structure, but sentencing for both crimes is governed by section 1608.

[PL 2019, c. 113, Pt. C, §61 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §60 (AMD). PL 1977, c. 510, §§50-52 (AMD). PL 1985, c. 282, §4 (AMD). PL 1997, c. 477, §1 (AMD). PL 2001, c. 383, §§53-55 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §21 (AMD). PL 2019, c. 113, Pt. C, §61 (AMD).

§402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person:

A. Enters any dwelling place. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Enters any structure that is locked or barred. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Enters any place from which that person may lawfully be excluded and that is posted in accordance with subsection 4 or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Remains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

E. Enters any place in defiance of a lawful order not to enter that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

F. Enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §57 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 1979, c. 701, §23 (RP).]

4. For the purposes of subsection 1, paragraph C, property is posted if it is marked with signs or paint in compliance with this subsection. Proof that any posted sign or paint marking is actually seen by an intruder gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such posted sign or paint marking is posted in a manner reasonably likely to come to the attention of intruders.

A. Signs must indicate that access is prohibited, that access is prohibited without permission of the landowner or the landowner's agent, or that access for a particular purpose is prohibited. [PL 1995, c. 529, §2 (NEW).]

B. [PL 2011, c. 432, §4 (AMD); MRSA T. 17-A §402, sub-4, ¶B (RP).]

B-1. Paint markings made pursuant to this paragraph mean that access is prohibited without permission of the landowner or the landowner's agent. Paint markings made pursuant to this paragraph must consist of a conspicuous vertical line at least one inch in width and at least 8 inches in length and must be placed so that the bottoms of the marks are not less than 3 feet from the ground or more than 5 feet from the ground at locations that are readily visible to any person approaching the property and no more than 100 feet apart. Paint markings may be placed on trees, posts or stones as described in this paragraph. The Department of Agriculture, Conservation and Forestry, Bureau of Forestry shall adopt rules to determine the color and type of paint that may be used to post property pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 432, §5 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

C. Signs or paint must mark the property at intervals no greater than 100 feet and at all vehicular access entries from a public road. [PL 1995, c. 529, §2 (NEW).]

D. Signs or paint markings are required only on the portion of the property where access is prohibited or limited. Signs or paint posted in accordance with this section have no effect on boundaries of property and do not constitute claims of possession or adverse use in accordance with state law. [PL 1995, c. 529, §2 (NEW).]

D-1. Notwithstanding any other provision of this section, a landowner who posts that landowner's land by paint markings and who intends to prohibit access without permission of the landowner or the landowner's agent or intends to prohibit access for a particular purpose may do this by posting in a prominent place one or more qualifying signs that by words or symbols set forth the nature of the prohibition. The landowner need not post the qualifying signs at 100-foot intervals. [PL 1999, c. 115, §1 (NEW).]

E. A person commits criminal mischief and is subject to prosecution under section 806 if that person, without permission of the owner or owner's agent:

(1) Knowingly posts the property of another with a sign or paint mark indicating that access is prohibited, that access is prohibited without permission or that access for a particular purpose is prohibited; or

(2) Removes, mutilates, defaces or destroys a sign or paint mark placed for purposes of this section. [PL 1995, c. 529, §2 (NEW).]

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders.
[PL 2011, c. 432, §§4, 5 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 128 (AMD). PL 1977, c. 510, §53 (AMD). PL 1979, c. 701, §23 (RPR). PL 1981, c. 317, §11 (AMD). PL 1989, c. 793 (AMD). PL 1995, c. 529, §§1, 2 (AMD). PL 1999, c. 115, §1 (AMD). PL 2001, c. 383, §§56-58 (AMD). PL 2001, c. 383, §156 (AFF). PL 2011, c. 432, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§402-A. Aggravated criminal trespass

1. A person is guilty of aggravated criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters a dwelling place and:

A. While in the dwelling place violates any provision of chapter 9 or chapter 11; or [PL 1999, c. 434, §1 (NEW).]

B. At the time of the offense, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: burglary in a dwelling place or criminal trespass in a dwelling place. Section 9-A governs the use of prior convictions when determining a sentence. [PL 2007, c. 476, §22 (AMD).]
[PL 2007, c. 476, §22 (AMD).]

2. Aggravated criminal trespass is a Class C crime.
[PL 1999, c. 434, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 434, §1 (NEW). PL 2001, c. 383, §59 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §22 (AMD).

§403. Possession or transfer of burglar's tools

1. A person is guilty of possession or transfer of burglar's tools if that person:

A. Possesses or makes any tool, implement, instrument or other article that is adapted, designed or commonly used for advancing or facilitating crimes involving unlawful entry into property or crimes involving forcible breaking of safes or other containers or depositories of property, including, but not limited to, an electronic device used as a code grabber or a master key designed to fit more than one lock, with intent to use such tool, implement, instrument or other article to commit any such criminal offense. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Transfers or possesses with the intent to transfer any device described in paragraph A that that person knows is designed or primarily useful for the commission of a crime described in paragraph A. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §61 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1997, c. 372, §1 (RPR). PL 2001, c. 383, §§60,61 (AMD). PL 2001, c. 383, §156 (AFF).

§404. Trespass by motor vehicle

1. A person is guilty of trespass by motor vehicle if, knowing that that person has no right to do so, that person intentionally or knowingly permits a motor vehicle belonging to that person or subject to that person's control to enter or remain in or on:

A. The residential property of another; [PL 1995, c. 529, §3 (AMD).]

B. The nonresidential property of another for a continuous period in excess of 24 hours; or [PL 1995, c. 529, §3 (AMD).]

C. The nonresidential property of another that is:

(1) Posted in accordance with section 402, subsection 4;

(2) Posted to prohibit access by motor vehicles; or

(3) Posted in a manner reasonably likely to come to the attention of intruders.

For purposes of this paragraph, property is posted to prohibit access by motor vehicles if the property owner or the owner's agent has posted the property boundaries at points where they are crossed by roads or trails with signs indicating that motor vehicle access is prohibited or with paint markings that comply with section 402, subsection 4, paragraph B. [PL 1995, c. 529, §3 (NEW).]

[PL 1995, c. 529, §3 (AMD).]

2. Proof that the defendant was the registered owner of the vehicle gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant was the person who permitted the vehicle to enter or remain on the property.

[PL 2001, c. 383, §62 (AMD); PL 2001, c. 383, §156 (AFF).]

3. Trespass by motor vehicle is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 529, §3 (AMD). PL 2001, c. 383, §62 (AMD). PL 2001, c. 383, §156 (AFF).

§405. Burglary of motor vehicle

1. A person is guilty of burglary of a motor vehicle if:

A. The person enters a motor vehicle, knowing that the person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class D crime; or [PL 2003, c. 711, Pt. A, §4 (NEW).]

B. The person violates paragraph A, and the person forcibly enters a motor vehicle that is locked. Violation of this paragraph is a Class C crime. [PL 2003, c. 711, Pt. A, §4 (NEW).]

[PL 2003, c. 711, Pt. A, §4 (RPR).]

2.

[PL 2003, c. 711, Pt. A, §4 (RP).]

2-A. As used in subsection 1, "forcibly" means with the use of a burglar's tool or by the use of physical force that damages or destroys the motor vehicle. "Burglar's tool" means any device described in section 403, subsection 1, paragraph A.

[PL 2003, c. 711, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 263 (NEW). PL 2003, c. 711, §A4 (RPR).

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