A Bill

ACT 442 OF 1993

HOUSE BILL 1469

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For An Act To Be Entitled

8   "AN ACT TO AMEND ARKANSAS CODE ANNOTATED 5-39-201 TO MAKE

9   RESIDENTIAL BURGLARY AND COMMERCIAL BURGLARY SEPARATE

10   OFFENSES; AND FOR OTHER PURPOSES."

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Subtitle

13   "TO MAKE RESIDENTIAL BURGLARY AND COMMERCIAL BURGLARY

14   SEPARATE OFFENSES"

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18   SECTION 1. Arkansas Code Annotated 5-39-101 is amended to read as

19 follows:

20   "5-39-101. Definitions.

21   As used in this chapter, unless the context otherwise requires:

22   (1) _Residential occupiable structure_ means a vehicle, building, or

23 other structure:

24   (A) Where any person lives; or

25   (B) Which is customarily used for overnight accommodation of

26 persons whether or not a person is actually present. Each unit of a

27 residential occupiable structure divided into separately occupied units is

28 itself a residential occupiable structure.

29   (2) _Commercial occupiable structure_ means a vehicle, building, or

30 other structure:

31   (A) Where any person carries on a business or other calling; or

32   (B) Where people assemble for purposes of business, government,

33 education, religion, entertainment, or public transportation.

34   (3) _Premises_ means occupiable structures and any real property.

35   (4) _Enter or remain unlawfully_ means to enter or remain in or upon

36 premises when not licensed or privileged to do so. A person who enters or

1 remains in or upon premises that are at the time open to the public does so

2 with license and privilege, regardless of his purpose, unless he defies a

3 lawful order not to enter or remain personally communicated to him by the

4 owner of the premises or some other person authorized by the owner. A license

5 or privilege to enter or remain in or upon premises only part of which are

6 open to the public is not a license or privilege to enter or remain in a part

7 of the premises not open to the public. A person who enters or remains upon

8 unimproved and apparently unused land not fenced or otherwise enclosed in a

9 manner designed to exclude intruders does so with license and privilege unless

10 notice not to enter or remain is personally communicated to him by the owner

11 or some person authorized by the owner, or unless notice is given by posting

12 in a conspicuous manner.

13   (5) _Vehicle_ means any craft or device designed for the transportation

14 of people or property across land or water or through the air."

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16   SECTION 2. Arkansas Code Annotated 5-39-201 is amended to read as

17 follows:

18   "5-39-201. Burglary.

19   (a) A person commits residential burglary if he enters or remains

20 unlawfully in a residential occupiable structure of another person with the

21 purpose of committing therein any offense punishable by imprisonment.

22   (b) A person commits commercial burglary if he enters or remains

23 unlawfully in a commercial occupiable structure of another with the purpose of

24 committing therein any offense punishable by imprisonment.

25   (c) Residential burglary is a Class B felony. Commercial burglary is a

26 Class C felony."

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28   SECTION 3. All provisions of this act of a general and permanent nature

29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

30 Revision Commission shall incorporate the same in the Code.

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32   SECTION 4. If any provision of this act or the application thereof to

33 any person or circumstance is held invalid, such invalidity shall not affect

34 other provisions or applications of the act which can be given effect without

35 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3   SECTION 5. All laws and parts of laws in conflict with this act are

4 hereby repealed.

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6   APPROVED: 03/10/93

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