

### 13-1501. Definitions

In this chapter, unless the context otherwise requires:

1. "Critical public service facility" means:

(a) A structure or fenced yard that is posted with signage indicating it is a felony to trespass or signage indicating high voltage or high pressure and is used by a rail, bus, air or other mass transit provider, a public or private utility, any municipal corporation, city, town or other political subdivision that is organized under state law and that generates, transmits, distributes or otherwise provides natural gas, liquefied petroleum gas, electricity or a combustible substance for a delivery system that is not a retail-only facility, a telecommunications carrier or telephone company, a municipal provider as defined in section 45-561, a law enforcement agency, a public or private fire department or an emergency medical service provider.

(b) A structure or fenced yard or any equipment or apparatus that is posted with signage indicating it is a felony to trespass or signage indicating high voltage or high pressure and is used to manufacture, extract, transport, distribute or store gas, including natural gas or liquefied petroleum gas, oil, electricity, water or hazardous materials, unless it is a retail-only facility.

2. "Enter or remain unlawfully" means an act of a person who enters or remains on premises when the person's intent for so entering or remaining is not licensed, authorized or otherwise privileged except when the entry is to commit theft of merchandise displayed for sale during normal business hours, when the premises are open to the public and when the person does not enter any unauthorized areas of the premises.

3. "Entry" means the intrusion of any part of any instrument or any part of a person's body inside the external boundaries of a structure or unit of real property.

4. "Fenced commercial yard" means a unit of real property that is surrounded completely by fences, walls, buildings or similar barriers, or any combination of fences, walls, buildings or similar barriers, and that is zoned for business operations or where livestock, produce or other commercial items are located.

5. "Fenced residential yard" means a unit of real property that immediately surrounds or is adjacent to a residential structure and that is enclosed by a fence, wall, building or similar barrier or any combination of fences, walls, buildings or similar barriers.

6. "Fenced yard" means a unit of real property that is surrounded by fences, walls, buildings or similar barriers or any combination of fences, walls, buildings or similar barriers.

7. "In the course of committing" means any acts that are performed by an intruder from the moment of entry to and including flight from the scene of a crime.

8. "Manipulation key" means a key, device or instrument, other than a key that is designed to operate a specific lock, that can be variably positioned and manipulated in a vehicle keyway to operate a lock or cylinder, including a wiggle key, jiggle key or rocker key.

9. "Master key" means a key that operates all the keyed locks or cylinders in a similar type or group of locks.

10. "Nonresidential structure" means any structure other than a residential structure and includes a retail establishment.

11. "Residential structure" means any structure, movable or immovable, permanent or temporary, that is adapted for both human residence and lodging whether occupied or not.

12. "Structure" means any device that accepts electronic or physical currency and that is used to conduct commercial transactions, any vending machine or any building, object, vehicle, railroad car or place with sides and a floor that is separately securable from any other structure attached to it and that is used for lodging, business, transportation, recreation or storage.

13. "Vending machine" means a machine that dispenses merchandise or service through the means of currency, coin, token, credit card or other nonpersonal means of accepting payment for merchandise or service received.

#### **13-1502. Criminal trespass in the third degree; classification**

A. A person commits criminal trespass in the third degree by:

1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by a law enforcement officer, the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.

2. Knowingly entering or remaining unlawfully on the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.

B. Pursuant to subsection A, paragraph 1 of this section, a request to leave by a law enforcement officer acting at the request of the owner of the property or any other person having lawful control over the property has the same legal effect as a request made by the property owner or other person having lawful control of the property.

C. Criminal trespass in the third degree is a class 3 misdemeanor.

#### **13-1503. Criminal trespass in the second degree; classification**

A. A person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.

B. Criminal trespass in the second degree is a class 2 misdemeanor.

#### **13-1504. Criminal trespass in the first degree; classification**

A. A person commits criminal trespass in the first degree by knowingly:

1. Entering or remaining unlawfully in or on a residential structure.

2. Entering or remaining unlawfully in a fenced residential yard.

3. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.

4. Entering unlawfully on real property that is subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on the claim or lease.

5. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.

6. Entering or remaining unlawfully in or on a critical public service facility.

B. Criminal trespass in the first degree under subsection A, paragraph 6 of this section is a class 5 felony. Criminal trespass in the first degree under subsection A, paragraph 1 or 5 of this section is a class 6 felony. Criminal trespass in the first degree under subsection A, paragraph 2, 3 or 4 of this section is a class 1 misdemeanor.

**13-1505. Possession of burglary tools; master key; manipulation key; classification**

A. A person commits possession of burglary tools by:

1. Possessing any explosive, tool, instrument or other article adapted or commonly used for committing any form of burglary as defined in sections 13-1506, 13-1507 and 13-1508 and intending to use or permit the use of such an item in the commission of a burglary.

2. Buying, selling, transferring, possessing or using a motor vehicle manipulation key or master key.

B. Subsection A, paragraph 2 of this section does not apply to a person who either:

1. Uses a master key in the course of the person's lawful business or occupation, including licensed vehicle dealers and manufacturers, key manufacturers who are engaged in the business of designing, making, altering, duplicating or repairing locks or keys, locksmiths, loan institutions that finance vehicles and law enforcement.

2. Transfers, possesses or uses no more than one manipulation key, unless the manipulation key is transferred, possessed or used with the intent to commit any theft or felony.

C. Possession of burglary tools is a class 6 felony.

**13-1506. Burglary in the third degree; classification**

A. A person commits burglary in the third degree by:

1. Entering or remaining unlawfully in or on a nonresidential structure or in a fenced commercial or residential yard with the intent to commit any theft or any felony therein.

2. Making entry into any part of a motor vehicle by means of a manipulation key or master key, with the intent to commit any theft or felony in the motor vehicle.

B. Burglary in the third degree is a class 4 felony.

**13-1507. Burglary in the second degree; classification**

A. A person commits burglary in the second degree by entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or any felony therein.

B. Burglary in the second degree is a class 3 felony.

**13-1508. Burglary in the first degree; classification**

A. A person commits burglary in the first degree if such person or an accomplice violates the provisions of either section 13-1506 or 13-1507 and knowingly possesses explosives, a deadly weapon or a dangerous instrument in the course of committing any theft or any felony.

B. Burglary in the first degree of a nonresidential structure or a fenced commercial or residential yard is a class 3 felony. It is a class 2 felony if committed in a residential structure.

**13-1509. Willful failure to complete or carry an alien registration document; exception; authenticated records; classification**

A. In addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of 8 United States Code section 1304(e) or 1306(a).

B. In the enforcement of this section, an alien's immigration status may be determined by:

1. A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.

2. The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States Code section 1373(c).

C. A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in the enforcement of this section except to the extent permitted by the United States or Arizona Constitution.

D. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon, commutation of sentence, or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or the person is eligible for release pursuant to section 41-1604.07.

E. In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs.

F. This section does not apply to a person who maintains authorization from the federal government to remain in the United States.

G. Any record that relates to the immigration status of a person is admissible in any court without further foundation or testimony from a custodian of records if the record is certified as authentic by the government agency that is responsible for maintaining the record.

H. A violation of this section is a class 1 misdemeanor, except that the maximum fine is one hundred dollars and for a first violation of this section the court shall not sentence the person to more than twenty days in jail and for a second or subsequent violation the court shall not sentence the person to more than thirty days in jail.