

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 744
Committee Substitute Favorable 4/26/17
Senate Judiciary Committee Substitute Adopted 6/12/18

Short Title: Trespass/Eastern Band Cherokee Indians Lands.

(Public)

Sponsors:

Referred to:

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CRIME OF TRESPASS TO INCLUDE UNAUTHORIZED
3 ENTRY UPON LANDS OF THE EASTERN BAND OF CHEROKEE INDIANS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 14-159.12 reads as rewritten:

6 "§ 14-159.12. First degree trespass.

7 (a) Offense. – A person commits the offense of first degree trespass if, without
8 authorization, he enters or remains:

9 (1) On premises of another so enclosed or secured as to demonstrate clearly an
10 intent to keep out intruders; ~~or~~

11 (2) In a building of ~~another~~ another; or

12 (3) On the lands of the Eastern Band of Cherokee Indians after the person has
13 been excluded by a resolution passed by the Eastern Band of Cherokee Indian
14 Tribal Council.

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

17 (c) Except as otherwise provided in subsection (d) of this section, a violation of
18 subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances
19 exist:

20 (1) The offense is committed on the premises of any of the following:

21 a. A facility that is owned or operated by an electric power supplier as
22 defined in G.S. 62-133.8(a)(3) and that is either an electric generation
23 facility, a transmission substation, a transmission switching station, a
24 transmission switching structure, or a control center used to manage
25 transmission operations or electrical power generating at multiple
26 plant locations.

27 b. Any facility used or available for use in the collection, treatment,
28 testing, storing, pumping, or distribution of water for a public water
29 system.

30 c. Any facility, including any liquefied natural gas storage facility or
31 propane air facility, that is owned or operated by a natural gas local
32 distribution company, natural gas pipeline carrier operating under a
33 certificate of public convenience and necessity from the Utilities
34 Commission, municipal corporation operating a municipally owned
35 gas distribution system, or regional natural gas district organized and



- 1 operated pursuant to Article 28 of Chapter 160A of the General
2 Statutes used for transmission, distribution, measurement, testing,
3 regulating, compression, control, or storage of natural gas.
- 4 d. Any facility used or operated for agricultural activities, as that term is
5 defined in G.S. 106-581.1.
- 6 (2) The person actually entered a building, or it was necessary for the person to
7 climb over, go under, or otherwise surmount a fence or other barrier to reach
8 the facility.
- 9 (d) If, in addition to the circumstances set out in subsection (c) of this section, the
10 violation also includes any of the following elements, then the offense is a Class H felony:
- 11 (1) The offense is committed with the intent to disrupt the normal operation of
12 any of the facilities described in subdivision (1) of subsection (c) of this
13 section.
- 14 (2) The offense involves an act that places either the offender or others on the
15 premises at risk of serious bodily injury.
- 16 (e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a
17 building or other infrastructure.
- 18 (f) A violation of subsection (a) of this section is a Class I felony and shall include a fine
19 of not less than one thousand dollars (\$1,000) for each violation, if any of the following
20 circumstances exist:
- 21 (1) The offense occurs on real property where the person has reentered after
22 having previously been removed pursuant to the execution of a valid order or
23 writ for possession.
- 24 (2) The offense occurs under color of title where the person has knowingly
25 created or provided materially false evidence of an ownership or possessory
26 interest.
- 27 (3) The offense is the person's second or subsequent violation of subdivision
28 (a)(3) of this section."
- 29 **SECTION 2.** This act becomes effective December 1, 2018, and applies to offenses
30 committed on or after that date.