

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 283

NJSA: 2C:18-1 (Criminalizes certain actions in or on utility company's property)

BILL NO: A3302 (Substituted for S2845)

SPONSOR(S) Scalera and Others

DATE INTRODUCED: October 16, 2008

COMMITTEE: **ASSEMBLY:** Law and Public Safety
Homeland Security and State Preparedness

SENATE: Economic Growth

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 15, 2008

SENATE: January 11, 2010

DATE OF APPROVAL: January 17, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint of bill enacted)

A3302

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2845

SPONSOR'S STATEMENT: (Begins on page 4 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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LAW/RWH

[First Reprint]

ASSEMBLY, No. 3302

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED OCTOBER 16, 2008

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Co-Sponsored by:

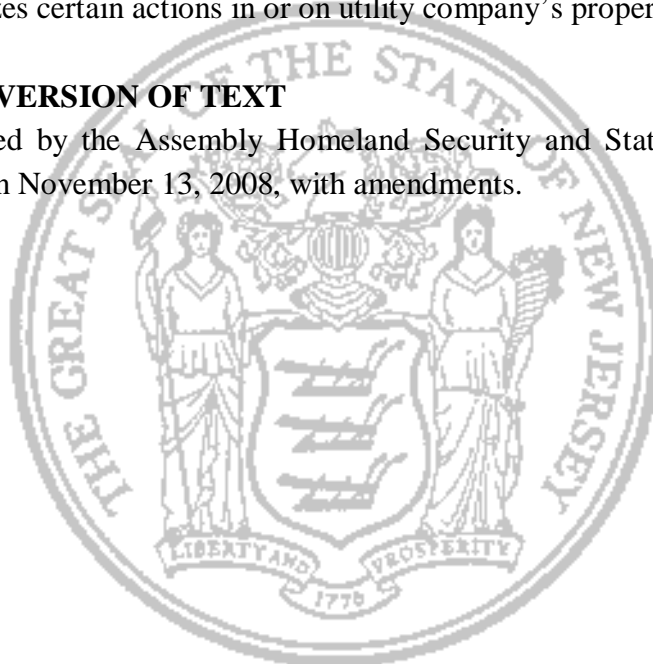
Assemblywoman Greenstein and Senator Sarlo

SYNOPSIS

Criminalizes certain actions in or on utility company's property.

CURRENT VERSION OF TEXT

As reported by the Assembly Homeland Security and State Preparedness Committee on November 13, 2008, with amendments.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning the security of utility companies and amending
2 N.J.S.2C:18-1, N.J.S.2C:18-2 and N.J.S.2C:18-3.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2C:18-1 is amended to read as follow:

8 2C:18-1. In this chapter, unless a different meaning plainly is
9 required~~[,]~~:

10 a. "structure" means any building, room, ship, vessel, car,
11 vehicle or airplane, and also means any place adapted for overnight
12 accommodation of persons, or for carrying on business therein,
13 whether or not a person is actually present;

14 b. ~~'["utility company"] "utility company property"'~~ means
15 ~~'property; (1) owned by'~~ a public utility, as defined in R.S.48:2-13,
16 ~~or 'by'~~ a municipality, county, water district, authority or other
17 public agency, ~~'and (2)'~~ which ~~'[provides]'~~ is used for the purpose
18 ~~of providing'~~ electric, gas or water utility service.

19 (cf: P.L.1980, c.112, s.1)

20

21 2. N.J.S.2C:18-2 is amended to read as follows:

22 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
23 burglary if, with purpose to commit an offense therein or thereon
24 he:

25 (1) Enters a research facility, structure, or a separately secured
26 or occupied portion thereof unless the structure was at the time
27 open to the public or the actor is licensed or privileged to enter;
28 **[or]**

29 (2) Surreptitiously remains in a research facility, structure, or a
30 separately secured or occupied portion thereof knowing that he is
31 not licensed or privileged to do so; or

32 (3) Trespasses in or upon ~~'[the property of a]'~~ utility company
33 'property' where public notice prohibiting trespass is given by
34 conspicuous posting, or fencing or other enclosure manifestly
35 designed to exclude intruders.

36 b. Grading. Burglary is a crime of the second degree if in the
37 course of committing the offense, the actor:

38 (1) Purposely, knowingly or recklessly inflicts, attempts to
39 inflict or threatens to inflict bodily injury on anyone; or

40 (2) Is armed with or displays what appear to be explosives or a
41 deadly weapon.

42 Otherwise burglary is a crime of the third degree. An act shall
43 be deemed "in the course of committing" an offense if it occurs in

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHS committee amendments adopted November 13, 2008.

1 an attempt to commit an offense or in immediate flight after the
2 attempt or commission.

3 (cf: P.L.1995, c.20, s.3)

4

5 3. N.J.S.2C:18-3 is amended to read as follows:

6 2C:18-3. a. Unlicensed entry of structures. A person commits
7 an offense if, knowing that he is not licensed or privileged to do so,
8 he enters or surreptitiously remains in any research facility,
9 structure, or separately secured or occupied portion thereof, or in or
10 upon '[the property of a]' utility company 'property'. An offense
11 under this subsection is a crime of the fourth degree if it is
12 committed in a school or on school property. The offense is a crime
13 of the fourth degree if it is committed in a dwelling. An offense
14 under this section is a crime of the fourth degree if it is committed
15 in a research facility, power generation facility, waste treatment
16 facility, public sewage facility, water treatment facility, public
17 water facility, nuclear electric generating plant or any facility which
18 stores, generates or handles any hazardous chemical or chemical
19 compounds. An offense under this subsection is a crime of the
20 fourth degree if it is committed in or upon '[the property of a]'
21 utility company 'property'. Otherwise it is a disorderly persons
22 offense.

23 b. Defiant trespasser. A person commits a petty disorderly
24 persons offense if, knowing that he is not licensed or privileged to
25 do so, he enters or remains in any place as to which notice against
26 trespass is given by:

27 (1) Actual communication to the actor; or

28 (2) Posting in a manner prescribed by law or reasonably likely
29 to come to the attention of intruders; or

30 (3) Fencing or other enclosure manifestly designed to exclude
31 intruders.

32 c. Peering into windows or other openings of dwelling places.
33 A person commits a crime of the fourth degree if, knowing that he
34 is not licensed or privileged to do so, he peers into a window or
35 other opening of a dwelling or other structure adapted for overnight
36 accommodation for the purpose of invading the privacy of another
37 person and under circumstances in which a reasonable person in the
38 dwelling or other structure would not expect to be observed.

39 d. Defenses. It is an affirmative defense to prosecution under
40 this section that:

41 (1) A structure involved in an offense under subsection a. was
42 abandoned;

43 (2) The structure was at the time open to members of the public
44 and the actor complied with all lawful conditions imposed on access
45 to or remaining in the structure; or

46 (3) The actor reasonably believed that the owner of the
47 structure, or other person empowered to license access thereto,

1 would have licensed him to enter or remain, or, in the case of
2 subsection c. of this section, to peer.

3 ¹[e. The provisions of this section shall not apply to person
4 representing, or seeking to represent, the employees of the utility
5 company.]¹

6 (cf: P.L.2005, c.100)

7

8 4. This act shall take effect immediately.

ASSEMBLY, No. 3302

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED OCTOBER 16, 2008

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Criminalizes certain actions in or on utility company's property.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/14/2008)

1 AN ACT concerning the security of utility companies and amending
2 N.J.S.2C:18-1, N.J.S.2C:18-2 and N.J.S.2C:18-3.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2C:18-1 is amended to read as follow:

8 2C:18-1. In this chapter, unless a different meaning plainly is
9 required~~[,]~~:

10 a. "structure" means any building, room, ship, vessel, car,
11 vehicle or airplane, and also means any place adapted for overnight
12 accommodation of persons, or for carrying on business therein,
13 whether or not a person is actually present;

14 b. "utility company" means a public utility, as defined in
15 R.S.48:2-13, or a municipality, county, water district, authority or
16 other public agency, which provides electric, gas or water utility
17 service.

18 (cf: P.L.1980, c.112, s.1)

19

20 2. N.J.S.2C:18-2 is amended to read as follows:

21 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
22 burglary if, with purpose to commit an offense therein or thereon
23 he:

24 (1) Enters a research facility, structure, or a separately secured
25 or occupied portion thereof unless the structure was at the time
26 open to the public or the actor is licensed or privileged to enter;
27 **[or]**

28 (2) Surreptitiously remains in a research facility, structure, or a
29 separately secured or occupied portion thereof knowing that he is
30 not licensed or privileged to do so; or

31 (3) Trespasses in or upon the property of a utility company
32 where public notice prohibiting trespass is given by conspicuous
33 posting, or fencing or other enclosure manifestly designed to
34 exclude intruders.

35 b. Grading. Burglary is a crime of the second degree if in the
36 course of committing the offense, the actor:

37 (1) Purposely, knowingly or recklessly inflicts, attempts to
38 inflict or threatens to inflict bodily injury on anyone; or

39 (2) Is armed with or displays what appear to be explosives or a
40 deadly weapon.

41 Otherwise burglary is a crime of the third degree. An act shall
42 be deemed "in the course of committing" an offense if it occurs in
43 an attempt to commit an offense or in immediate flight after the
44 attempt or commission.

45 (cf: P.L.1995, c.20, s.3)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. N.J.S.2C:18-3 is amended to read as follows:

2 2C:18-3. a. Unlicensed entry of structures. A person commits
3 an offense if, knowing that he is not licensed or privileged to do so,
4 he enters or surreptitiously remains in any research facility,
5 structure, or separately secured or occupied portion thereof, or in or
6 upon the property of a utility company. An offense under this
7 subsection is a crime of the fourth degree if it is committed in a
8 school or on school property. The offense is a crime of the fourth
9 degree if it is committed in a dwelling. An offense under this
10 section is a crime of the fourth degree if it is committed in a
11 research facility, power generation facility, waste treatment facility,
12 public sewage facility, water treatment facility, public water
13 facility, nuclear electric generating plant or any facility which
14 stores, generates or handles any hazardous chemical or chemical
15 compounds. An offense under this subsection is a crime of the
16 fourth degree if it is committed in or upon the property of a utility
17 company. Otherwise it is a disorderly persons offense.

18 b. Defiant trespasser. A person commits a petty disorderly
19 persons offense if, knowing that he is not licensed or privileged to
20 do so, he enters or remains in any place as to which notice against
21 trespass is given by:

22 (1) Actual communication to the actor; or

23 (2) Posting in a manner prescribed by law or reasonably likely
24 to come to the attention of intruders; or

25 (3) Fencing or other enclosure manifestly designed to exclude
26 intruders.

27 c. Peering into windows or other openings of dwelling places.
28 A person commits a crime of the fourth degree if, knowing that he
29 is not licensed or privileged to do so, he peers into a window or
30 other opening of a dwelling or other structure adapted for overnight
31 accommodation for the purpose of invading the privacy of another
32 person and under circumstances in which a reasonable person in the
33 dwelling or other structure would not expect to be observed.

34 d. Defenses. It is an affirmative defense to prosecution under
35 this section that:

36 (1) A structure involved in an offense under subsection a. was
37 abandoned;

38 (2) The structure was at the time open to members of the public
39 and the actor complied with all lawful conditions imposed on access
40 to or remaining in the structure; or

41 (3) The actor reasonably believed that the owner of the
42 structure, or other person empowered to license access thereto,
43 would have licensed him to enter or remain, or, in the case of
44 subsection c. of this section, to peer.

45 e. The provisions of this section shall not apply to person
46 representing, or seeking to represent, the employees of the utility
47 company.

48 (cf: P.L.2005, c.100)

1 4. This act shall take effect immediately.

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STATEMENT

5

6 This bill amends the current burglary statute to include the act of
7 trespassing in or upon a utility company's property with the purpose
8 to commit an offense. The bill defines "utility company" as (1)
9 every individual, copartnership, association, corporation or joint
10 stock company, their lessees, trustees or receivers appointed by any
11 court whatsoever, their successors, heirs or assigns, that now or
12 hereafter may own, operate, manage or control within this State any
13 railroad, street railway, traction railway, autobus, charter bus
14 operation, special bus operation, canal, express, subway, pipeline,
15 gas, electricity distribution, water, oil, sewer, solid waste collection,
16 solid waste disposal, telephone or telegraph system, plant or
17 equipment for public use, under privileges granted by the State or
18 by any political subdivision; or (2) a municipality, county, water
19 district, authority or other public agency, which provides electric,
20 gas or water utility service.

21 Burglary is a crime of the second degree if the actor (1)
22 purposely, knowingly or recklessly inflicts, attempts to inflict or
23 threatens to inflict bodily injury or (2) is armed or appears to be
24 armed. A crime of the second degree is punishable by a fine of up
25 to \$150,000; imprisonment for a term of five to 10 years; or both.
26 In all other cases, it is a crime of the third degree, which is
27 punishable by a fine of up to \$15,000; imprisonment for a term of
28 three to five years; or both.

29 The bill also establishes the unlicensed entry of a utility
30 company's property as a crime of the fourth degree. A person
31 commits this crime if he unlawfully enters or surreptitiously
32 remains in or on railroad property. A crime of the fourth degree is
33 punishable by a fine of up to \$10,000; imprisonment for a term of
34 up to 18 months; or both.

ASSEMBLY HOMELAND SECURITY AND STATE
PREPAREDNESS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3302

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Homeland Security and State Preparedness Committee reports favorably and with committee amendments Assembly Bill No. 3302.

As reported by the committee, Assembly Bill No. 3302 amends the current burglary statute to include the act of trespassing in or upon a utility company's property with the purpose to commit an offense. The amended bill defines "utility company property" as property that is owned by:

(1) every individual, co-partnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted by the State or by any political subdivision; or

(2) by a municipality, county, water district, authority or other public agency; and

(3) which is used for the purpose of providing electric, gas or water utility service.

Burglary is a crime of the second degree if the actor (1) purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury or (2) is armed or appears to be armed. A crime of the second degree is punishable by a fine of up to \$150,000; imprisonment for a term of five to 10 years; or both. In all other cases, it is a crime of the third degree, which is punishable by a fine of up to \$15,000; imprisonment for a term of three to five years; or both.

The bill also establishes the unlicensed entry of a utility company's property as a crime of the fourth degree. A person commits this crime if he unlawfully enters or surreptitiously remains in or on the property of a utility company. A crime of the fourth degree is punishable by a

fine of up to \$10,000; imprisonment for a term of up to 18 months; or both.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) eliminate language that allowed the unlicensed entry of a utility company's property by individuals who represent, or seek to represent, employees of that utility company; and

(2) clarify the definition of "utility company property."

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3302

STATE OF NEW JERSEY

DATED: MAY 14, 2009

The Senate Economic Growth Committee reports favorably Assembly Bill, No. 3302 (1R).

This bill amends the current burglary statute to include the act of trespassing undertaken with the purpose to commit an offense in or upon a utility company's property on which clear public notice is given prohibiting such trespass. The amended bill defines "utility company property" as property that is: 1) owned by a "public utility," as that term is defined in R.S.48:2-13, or a municipality, county, water district, authority, or other public agency; and 2) used for the purpose of providing electric, gas or water utility service.

Burglary is a crime of the second degree if the actor (1) purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury or (2) is armed or appears to be armed. A crime of the second degree is punishable by a fine of up to \$150,000; imprisonment for a term of five to 10 years; or both. In all other cases, it is a crime of the third degree, which is punishable by a fine of up to \$15,000; imprisonment for a term of three to five years; or both.

The bill also establishes the unlicensed entry of a utility company's property as a crime of the fourth degree. A person commits this crime if that person unlawfully enters or surreptitiously remains in or on the property of a utility company. A crime of the fourth degree is punishable by a fine of up to \$10,000; imprisonment for a term of up to 18 months; or both.

SENATE, No. 2845

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 14, 2009

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Criminalizes certain actions in or on utility company's property.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the security of utility companies and amending
2 N.J.S.2C:18-1, N.J.S.2C:18-2 and N.J.S.2C:18-3.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. N.J.S.2C:18-1 is amended to read as follow:

8 2C:18-1. In this chapter, unless a different meaning plainly is
9 required **[,]**:

10 a. "structure" means any building, room, ship, vessel, car,
11 vehicle or airplane, and also means any place adapted for overnight
12 accommodation of persons, or for carrying on business therein,
13 whether or not a person is actually present;

14 b. "utility company property" means property: (1) owned by a
15 public utility, as defined in R.S.48:2-13, or by a municipality,
16 county, water district, authority or other public agency, and (2)
17 which is used for the purpose of providing electric, gas or water
18 utility service.

19 (cf: P.L.1980, c.112, s.1)

20

21 2. N.J.S.2C:18-2 is amended to read as follows:

22 2C:18-2. Burglary. a. Burglary defined. A person is guilty of
23 burglary if, with purpose to commit an offense therein or thereon
24 he:

25 (1) Enters a research facility, structure, or a separately secured
26 or occupied portion thereof unless the structure was at the time
27 open to the public or the actor is licensed or privileged to enter;
28 **[or]**

29 (2) Surreptitiously remains in a research facility, structure, or a
30 separately secured or occupied portion thereof knowing that he is
31 not licensed or privileged to do so; or

32 (3) Trespasses in or upon utility company property where public
33 notice prohibiting trespass is given by conspicuous posting, or
34 fencing or other enclosure manifestly designed to exclude intruders.

35 b. Grading. Burglary is a crime of the second degree if in the
36 course of committing the offense, the actor:

37 (1) Purposely, knowingly or recklessly inflicts, attempts to
38 inflict or threatens to inflict bodily injury on anyone; or

39 (2) Is armed with or displays what appear to be explosives or a
40 deadly weapon.

41 Otherwise burglary is a crime of the third degree. An act shall
42 be deemed "in the course of committing" an offense if it occurs in
43 an attempt to commit an offense or in immediate flight after the
44 attempt or commission.

45 (cf: P.L.1995, c.20, s.3)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. N.J.S.2C:18-3 is amended to read as follows:

2 2C:18-3. a. Unlicensed entry of structures. A person commits
3 an offense if, knowing that he is not licensed or privileged to do so,
4 he enters or surreptitiously remains in any research facility,
5 structure, or separately secured or occupied portion thereof, or in or
6 upon utility company property. An offense under this subsection is
7 a crime of the fourth degree if it is committed in a school or on
8 school property. The offense is a crime of the fourth degree if it is
9 committed in a dwelling. An offense under this section is a crime
10 of the fourth degree if it is committed in a research facility, power
11 generation facility, waste treatment facility, public sewage facility,
12 water treatment facility, public water facility, nuclear electric
13 generating plant or any facility which stores, generates or handles
14 any hazardous chemical or chemical compounds. An offense under
15 this subsection is a crime of the fourth degree if it is committed in
16 or upon utility company property. Otherwise it is a disorderly
17 persons offense.

18 b. Defiant trespasser. A person commits a petty disorderly
19 persons offense if, knowing that he is not licensed or privileged to
20 do so, he enters or remains in any place as to which notice against
21 trespass is given by:

22 (1) Actual communication to the actor; or

23 (2) Posting in a manner prescribed by law or reasonably likely
24 to come to the attention of intruders; or

25 (3) Fencing or other enclosure manifestly designed to exclude
26 intruders.

27 c. Peering into windows or other openings of dwelling places.
28 A person commits a crime of the fourth degree if, knowing that he
29 is not licensed or privileged to do so, he peers into a window or
30 other opening of a dwelling or other structure adapted for overnight
31 accommodation for the purpose of invading the privacy of another
32 person and under circumstances in which a reasonable person in the
33 dwelling or other structure would not expect to be observed.

34 d. Defenses. It is an affirmative defense to prosecution under
35 this section that:

36 (1) A structure involved in an offense under subsection a. was
37 abandoned;

38 (2) The structure was at the time open to members of the public
39 and the actor complied with all lawful conditions imposed on access
40 to or remaining in the structure; or

41 (3) The actor reasonably believed that the owner of the
42 structure, or other person empowered to license access thereto,
43 would have licensed him to enter or remain, or, in the case of
44 subsection c. of this section, to peer.

45 (cf: P.L.2005, c.100)

46

47 4. This act shall take effect immediately.

STATEMENT

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This bill amends the current burglary statute to include the act of trespassing in or upon a utility company’s property with the purpose to commit an offense. The amended bill defines “utility company property” as property that is owned by: 1) a public utility as defined in R.S.48:2-13; or 2) by a municipality, county, water district, authority or other public agency; and 3) which is used for the purpose of providing electric, gas or water utility service.

Burglary is a crime of the second degree if the actor (1) purposely, knowingly or recklessly inflicts, attempts to inflict or threatens to inflict bodily injury or (2) is armed or appears to be armed. A crime of the second degree is punishable by a fine of up to \$150,000; imprisonment for a term of five to 10 years; or both. In all other cases, it is a crime of the third degree, which is punishable by a fine of up to \$15,000; imprisonment for a term of three to five years; or both.

The bill also establishes the unlicensed entry of a utility company’s property as a crime of the fourth degree. A person commits this crime if he unlawfully enters or surreptitiously remains in or on the property of a utility company. A crime of the fourth degree is punishable by a fine of up to \$10,000; imprisonment for a term of up to 18 months; or both.