

## ENROLLED

HB 207, Engrossed 1

2005 Legislature

1 A bill to be entitled

2 An act relating to criminal acts committed during a state  
3 of emergency; amending s. 810.02, F.S.; providing enhanced  
4 penalties for specified burglaries that are committed  
5 during a state of emergency; providing that a person  
6 arrested for committing a burglary during a state of  
7 emergency may not be released until that person appears  
8 before a magistrate at a first-appearance hearing;  
9 directing that a felony burglary committed during a state  
10 of emergency be reclassified one level above the current  
11 ranking of the offense committed; amending s. 812.014,  
12 F.S.; providing enhanced penalties for the theft of  
13 certain property stolen during a state of emergency;  
14 directing that a felony theft committed during a state of  
15 emergency be reclassified one level above the current  
16 ranking of the offense committed; providing an effective  
17 date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsections (3) and (4) of section 810.02,  
22 Florida Statutes, are amended to read:

23 810.02 Burglary.--

24 (3) Burglary is a felony of the second degree, punishable  
25 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
26 course of committing the offense, the offender does not make an  
27 assault or battery and is not and does not become armed with a

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28 | dangerous weapon or explosive, and the offender enters or  
 29 | remains in a:

30 |       (a) Dwelling, and there is another person in the dwelling  
 31 | at the time the offender enters or remains;

32 |       (b) Dwelling, and there is not another person in the  
 33 | dwelling at the time the offender enters or remains;

34 |       (c) Structure, and there is another person in the  
 35 | structure at the time the offender enters or remains; or

36 |       (d) Conveyance, and there is another person in the  
 37 | conveyance at the time the offender enters or remains.

38 |  
 39 | However, if the burglary is committed within an area that is  
 40 | subject to a state of emergency declared by the Governor under  
 41 | chapter 252, the burglary is a felony of the first degree,  
 42 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

43 | A person arrested for committing a burglary within an area that  
 44 | is subject to a state of emergency declared by the Governor  
 45 | under chapter 252 may not be released until the person appears  
 46 | before a committing magistrate at a first-appearance hearing.

47 | For purposes of sentencing under chapter 921, a felony offense  
 48 | that is reclassified under this subsection is ranked one level  
 49 | above the ranking under s. 921.0022 or s. 921.0023 of the  
 50 | offense committed.

51 |       (4) Burglary is a felony of the third degree, punishable  
 52 | as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
 53 | course of committing the offense, the offender does not make an  
 54 | assault or battery and is not and does not become armed with a

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55 | dangerous weapon or explosive, and the offender enters or  
 56 | remains in a:

57 |       (a) Structure, and there is not another person in the  
 58 | structure at the time the offender enters or remains; or

59 |       (b) Conveyance, and there is not another person in the  
 60 | conveyance at the time the offender enters or remains.

61 |  
 62 | However, if the burglary is committed within an area that is  
 63 | subject to a state of emergency declared by the Governor under  
 64 | chapter 252, the burglary is a felony of the second degree,  
 65 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

66 | A person arrested for committing a burglary within an area that  
 67 | is subject to a state of emergency declared by the Governor  
 68 | under chapter 252 may not be released until the person appears  
 69 | before a committing magistrate at a first-appearance hearing.  
 70 | For purposes of sentencing under chapter 921, a felony offense  
 71 | that is reclassified under this subsection is ranked one level  
 72 | above the ranking under s. 921.0022 or s. 921.0023 of the  
 73 | offense committed.

74 |       Section 2. Paragraphs (b) and (c) of subsection (2) of  
 75 | section 812.014, Florida Statutes, are amended to read:

76 |       812.014 Theft.--

77 |       (2)

78 |       (b)1. If the property stolen is valued at \$20,000 or more,  
 79 | but less than \$100,000;

80 |       2. The property stolen is cargo valued at less than  
 81 | \$50,000 that has entered the stream of interstate or intrastate

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82 | commerce from the shipper's loading platform to the consignee's  
 83 | receiving dock; or

84 |         3. The property stolen is emergency medical equipment,  
 85 | valued at \$300 or more, that is taken from a facility licensed  
 86 | under chapter 395 or from an aircraft or vehicle permitted under  
 87 | chapter 401,

88 |  
 89 | the offender commits grand theft in the second degree,  
 90 | punishable as a felony of the second degree, as provided in s.  
 91 | 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
 92 | means mechanical or electronic apparatus used to provide  
 93 | emergency services and care as defined in s. 395.002(10) or to  
 94 | treat medical emergencies. However, if the property is stolen  
 95 | within an area that is subject to a state of emergency declared  
 96 | by the Governor under chapter 252, the offender commits a felony  
 97 | of the first degree, punishable as provided in s. 775.082, s.  
 98 | 775.083, or s. 775.084. For purposes of sentencing under chapter  
 99 | 921, a felony offense that is reclassified under this paragraph  
 100 | is ranked one level above the ranking under s. 921.0022 or s.  
 101 | 921.0023 of the offense committed.

102 |         (c) It is grand theft of the third degree and a felony of  
 103 | the third degree, punishable as provided in s. 775.082, s.  
 104 | 775.083, or s. 775.084, if the property stolen is:

- 105 |             1. Valued at \$300 or more, but less than \$5,000.
- 106 |             2. Valued at \$5,000 or more, but less than \$10,000.
- 107 |             3. Valued at \$10,000 or more, but less than \$20,000.
- 108 |             4. A will, codicil, or other testamentary instrument.
- 109 |             5. A firearm.

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110           6. A motor vehicle, except as provided in paragraph  
111 (2) (a).

112           7. Any commercially farmed animal, including any animal of  
113 the equine, bovine, or swine class, or other grazing animal, and  
114 including aquaculture species raised at a certified aquaculture  
115 facility. If the property stolen is aquaculture species raised  
116 at a certified aquaculture facility, then a \$10,000 fine shall  
117 be imposed.

118           8. Any fire extinguisher.

119           9. Any amount of citrus fruit consisting of 2,000 or more  
120 individual pieces of fruit.

121           10. Taken from a designated construction site identified  
122 by the posting of a sign as provided for in s. 810.09(2) (d).

123           11. Any stop sign.

124           12. Anhydrous ammonia.

125  
126 However, if the property is stolen within an area that is  
127 subject to a state of emergency declared by the Governor under  
128 chapter 252 and the property is valued at \$5,000 or more, but  
129 less than \$10,000, as provided under subparagraph 2., or the  
130 property is valued at \$10,000 or more, but less than \$20,000, as  
131 provided under subparagraph 3., the offender commits a felony of  
132 the second degree, punishable as provided in s. 775.082, s.  
133 775.083, or s. 775.084. For purposes of sentencing under chapter  
134 921, a felony offense that is reclassified under this paragraph  
135 is ranked one level above the ranking under s. 921.0022 or s.  
136 921.0023 of the offense committed.

137           Section 3. This act shall take effect July 1, 2005.