

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0042

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to CLARK-----Burglary.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-32-1 be amended to read as follows:

4 22-32-1. Any person who enters or remains in an occupied structure, with intent to commit
5 ~~any crime other than the act of shoplifting or retail theft as described in chapter 22-30A~~
6 ~~constituting a misdemeanor, or remains in an occupied structure after forming the intent to~~
7 ~~commit any crime other than shoplifting or retail theft as described in chapter 22-30A~~
8 ~~constituting a misdemeanor, unless the premises are, at the time, open to the public or the person~~
9 is licensed or privileged to enter or remain, is guilty of first degree burglary ~~when~~ if:

- 10 (1) The offender inflicts, or attempts or threatens to inflict, physical harm on another;
- 11 (2) The offender is armed with a dangerous weapon; or
- 12 (3) The offense is committed in the nighttime.

13 First degree burglary is a Class 2 felony.

14 Section 2. That § 22-32-3 be amended to read as follows:

15 22-32-3. Any person who enters or remains in an occupied structure with intent to commit
16 ~~any crime other than the act of shoplifting or retail theft as described in chapter 22-30A~~



1 ~~constituting a misdemeanor, or remains in an occupied structure after forming the intent to~~
2 ~~commit any crime other than shoplifting as described in chapter 22-30A constituting a~~
3 ~~misdemeanor, unless the premises are, at the time, open to the public or the person is licensed~~
4 ~~or privileged to enter or remain,~~ under circumstances not amounting to first degree burglary, is
5 guilty of second degree burglary. Second degree burglary is a Class 3 felony.

6 Section 3. That § 22-32-8 be amended to read as follows:

7 22-32-8. Any person who enters or remains in an unoccupied structure, other than a motor
8 vehicle, with intent to commit any crime ~~other than the act of shoplifting or retail theft as~~
9 ~~described in chapter 22-30A constituting a misdemeanor, or remains in an unoccupied structure~~
10 ~~after forming the intent to commit any crime other than shoplifting as described in chapter 22-~~
11 ~~30A constituting a misdemeanor, unless the premises are, at the time, open to the public or the~~
12 person is licensed or privileged to enter or remain, is guilty of third degree burglary. Third
13 degree burglary is a Class 4 felony.

14 Section 4. That § 22-32-15 be amended to read as follows:

15 22-32-15. The ~~word term,~~ nighttime, as used in this chapter ~~includes,~~ means the period
16 between thirty minutes past sunset and thirty minutes before sunrise.

17 Section 5. That § 22-32-17 be amended to read as follows:

18 22-32-17. Any person who has in his or her possession any weapon or instrument
19 specifically designed or adapted for the commission of a burglary or any explosive useful for
20 the commission of a burglary, with the intent to commit a burglary, is guilty of a Class 5 Class
21 6 felony.

22 Section 6. That § 22-32-19 be amended to read as follows:

23 22-32-19. Any person who forcibly enters an automobile or motor truck a motor vehicle
24 with intent to commit any crime therein, or remains in an automobile or motor truck after

1 ~~forming an intent to commit any crime therein in that motor vehicle~~ is guilty of ~~fourth degree~~
2 ~~burglary. Fourth degree burglary~~ aggravated criminal entry of a motor vehicle. Aggravated
3 criminal entry of a motor vehicle is a Class 6 felony.

4 Section 7. That chapter 22-32 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who enters a motor vehicle without the use of force or who remains in a motor
7 vehicle after forming an intent to commit any crime in that motor vehicle is guilty of criminal
8 entry of a motor vehicle. Criminal entry of a motor vehicle is a class 1 misdemeanor.