

**CHAPTER 12.1-22**  
**ROBBERY - BREAKING AND ENTERING OFFENSES**

**12.1-22-01. Robbery.**

1. A person is guilty of robbery if, in the course of committing a theft, he inflicts or attempts to inflict bodily injury upon another or threatens or menaces another with imminent bodily injury.
2. Robbery is a class A felony if the actor fires a firearm or explodes or hurls a destructive device or directs the force of any other dangerous weapon against another. Robbery is a class B felony if the robber possesses or pretends to possess a firearm, destructive device, or other dangerous weapon, or menaces another with serious bodily injury, or inflicts bodily injury upon another, or is aided by an accomplice actually present. Otherwise robbery is a class C felony.
3. In this section:
  - a. An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, whether or not the theft is successfully completed, or in immediate flight from the commission of, or an unsuccessful effort to commit, the theft.
  - b. "Dangerous weapon" means a weapon defined in section 12.1-01-04 or a weapon the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury.

**12.1-22-02. Burglary.**

1. A person is guilty of burglary if he willfully enters or surreptitiously remains in a building or occupied structure, or a separately secured or occupied portion thereof, when at the time the premises are not open to the public and the actor is not licensed, invited, or otherwise privileged to enter or remain as the case may be, with intent to commit a crime therein.
2. Burglary is a class B felony if:
  - a. The offense is committed at night and is knowingly perpetrated in the dwelling of another; or
  - b. In effecting entry or while in the premises or in immediate flight therefrom, the actor inflicts or attempts to inflict bodily injury or physical restraint on another, or menaces another with imminent serious bodily injury, or is armed with a firearm, destructive device, or other weapon the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury.Otherwise burglary is a class C felony.

**12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

1. An individual is guilty of a class C felony if, knowing the individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual who unlawfully detains, occupies, or trespasses upon a residential dwelling is guilty of a class C felony for the first offense and a class B felony for a second or subsequent offense if the second or subsequent offense occurred at the same residential dwelling as the first offense.
3. An individual is guilty of a class A misdemeanor if, knowing the individual is not licensed or privileged to do so, the individual:
  - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. Enters or remains in any place enclosed by a fence or otherwise enclosed as manifestly to exclude intruders, unless the individual is a licensed hunter or angler who is lawfully hunting or fishing. For purposes of this subdivision, "fence" means a permanent structure on nonurban, private property which is maintained and capable of containing livestock.

4.
  - a. An individual is guilty of a class B misdemeanor if, knowing the individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the owner or an individual authorized by the owner or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
  - b. Even if the conduct of the owner or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
  - c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
5.
  - a. A peace officer may cite an individual who, knowing the individual is not licensed or privileged to do so, entered or remained in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders or a place enclosed by a fence as defined in subsection 2, with a noncriminal offense. An individual cited under this subsection may not be prosecuted under subsection 2 or 3 for the same offense.
  - b. The fine for a citation under subdivision a is two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
    - i. A citing peace officer may not receive the statutory fine or bond.
    - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
6. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
7. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

**12.1-22-03.1. Surreptitious intrusion.**

Repealed by S.L. 2001, ch. 134, § 11.

**12.1-22-04. Unlawful entry into or concealment within a vehicle.**

1. A person is guilty of an offense if, knowing that the person is not licensed or privileged to do so, the person:
  - a. Forcibly enters a vehicle, vessel, or aircraft;
  - b. Enters a vehicle, vessel, or aircraft, without the use of force, with intent to commit a crime; or
  - c. Enters a vehicle, vessel, or aircraft lawfully, and with the intent to commit a crime, conceals oneself in the vehicle, vessel, or aircraft.
2. The offense is a class B felony if the actor is armed with a firearm, destructive device, or other weapon the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury. Otherwise the offense is a class C felony.

**12.1-22-05. Stowing away.**

A person is guilty of a class A misdemeanor if, knowing that he is not licensed or privileged to do so, he surreptitiously remains aboard a vehicle, train, vessel, or aircraft with intent to obtain transportation.

**12.1-22-06. Definitions.**

In sections 12.1-22-02 to 12.1-22-06:

1. "Dwelling" means real property or residential property, including a building, structure, or part of a building or structure, used or intended to be used as a home or residence.
2. "Highly secured premises" means any place which is continuously guarded and where display of visible identification is required of persons while they are on the premises.
3. "Night" means the period between thirty minutes past sunset and thirty minutes before sunrise.
4. "Occupied structure" means a structure or vehicle:
  - a. Where any person lives or carries on business or other calling; or
  - b. Which is used for overnight accommodation of persons.
  - c. Any such structure or vehicle is deemed to be "occupied" regardless of whether a person is actually present.
5. "Storage structure" means any structure, truck, railway car, or aircraft which is used primarily for the storage or transportation of property.