

Ala. Code 1975, § 13A-7-4
Criminal Trespass Third
Degree

The defendant is charged with criminal trespass in the third degree.

A person commits the crime of criminal trespass in the third degree if he/she knowingly enters or remains unlawfully in or upon premises.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

(1) The defendant entered or remained unlawfully in or upon premises, the property of **[insert name]**; **(AND)**

(2) The defendant did so knowingly.

A person *Enters or Remains Unlawfully* in or upon premises when he/she is not licensed, invited or privileged to do so. A person who, regardless of his/her intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he/she defies a lawful order not to enter or remain, personally communicated to him/her by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privileges unless notice against trespass is personally communicated to him/her by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner. [13A-7-1(3)]

Premises includes any building and any real property. [13A-7-1(5)]

A *Building* is any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and such term includes any vehicle, aircraft or watercraft used for the lodging of persons or carrying on business therein, and such term includes any railroad box car or other rail equipment or trailer or tractor trailer or combination thereof. Where a building consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building. [13A-7-1(1)]

Posting in a Conspicuous Manner is a sign or signs posted on the property, reasonably likely to come to the attention of intruders, indicating that entry is forbidden or the placement of identifying purple paint marks on trees or posts on the

property, provided that the marks satisfy all of the following:

- a. Are vertical lines of not less than eight inches in length and not less than one inch in width;
- b. Are placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; **(AND)**
- c. Are placed at locations that are readily visible to any person approaching the property and are no more than 100 feet apart on forest land or 1,000 feet apart on land other than forest land. [13A-7-1(4)]

An intruder acts *Knowingly* if he/she is aware of the fact that he/she has no license or privilege to enter or remain. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of criminal trespass in the third degree, then you shall find the defendant guilty of criminal trespass in the third degree.

If you find that the State has failed to prove any one or more of the elements of criminal trespass in the third degree, then you cannot find the defendant guilty of criminal trespass in the third degree.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

[Approved 08-13-24]