

1 HB98
2 134411-1
3 By Representative Wood
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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8 SYNOPSIS: Under existing law, a person commits
9 burglary in the second degree if the person
10 unlawfully enter a lawfully occupied dwelling-house
11 with intent to commit a theft or felony therein.

12 This bill would remove the requirement that
13 a dwelling-house be lawfully occupied in order for
14 a burglary in the second degree to occur and would
15 specify that the burglary of a livable dwelling
16 would constitute burglary in the second degree.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official ReCompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 13A-7-6 of the Code of Alabama
16 1975, relating to burglary in the second degree; to further
17 define the offense to include burglary of a livable
18 dwelling-house; and in connection therewith to have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds within the meaning of Amendment 621
21 of the Constitution of Alabama of 1901, now appearing as
22 Section 111.05 of the Official ReCompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 13A-7-6 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§13A-7-6.

1 "(a) A person commits the crime of burglary in the
2 second degree if he or she knowingly enters or remains
3 unlawfully in a building with intent to commit theft or a
4 felony therein and, if in effecting entry or while in the
5 building or in immediate flight therefrom, the person or
6 another participant in the crime:

7 "(1) Is armed with explosives; or

8 "(2) Causes physical injury to any person who is not
9 a participant in the crime; or

10 "(3) In effecting entry, is armed with a deadly
11 weapon or dangerous instrument or, while in the building or in
12 immediate flight from the building, uses or threatens the
13 immediate use of a deadly weapon or dangerous instrument
14 against another person. The use of or threatened use of a
15 deadly weapon or dangerous instrument does not include the
16 mere acquisition of a deadly weapon or dangerous instrument
17 during the burglary.

18 "(b) In the alternative to subsection (a) of this
19 section, a person commits the crime of burglary in the second
20 degree if he or she unlawfully enters a ~~lawfully occupied~~
21 livable dwelling-house, whether occupied or not, with intent
22 to commit a theft or a felony therein.

23 "(c) Burglary in the second degree is a Class B
24 felony."

25 Section 2. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 3. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.