

(3) ANY TRAILER, AIRCRAFT, BOAT, SHIP, OR RAILROAD CAR.

COMMITTEE NOTE:

The meaning of the terms "break", "enter", and "dwelling" have been extensively developed at common law and in Maryland case law. Therefore, the Committee believes that these terms should retain their judicially determined meanings. More specifically, the Committee believes that the terms "dwelling", "break", and "enter" should retain the meanings that have been ascribed to these words by judges in cases interpreting the elements of the common law crime of burglary.

The meaning of the term "storehouse" has been developed less fully by judicial interpretation than the meaning of the terms "break", "enter", and "dwelling". Therefore, the Committee believes that the term "storehouse" should retain the meaning that has been ascribed to it by judges in cases interpreting the elements of the current statutory forms of storehouse breaking but should also expressly include most of the structures that are currently included in the definition of the term "structure" in Article 27, § 5(e) of the Code.

It should be noted that there are three differences between the definition of the term "storehouse" in this bill and the term "structure" in Article 27, § 5(e) of the Code.

First, the definition of the term "storehouse" does not include the terms "vehicle", "motor vehicle", and "tent", which are included in the definition of the term "structure" in Article 27, § 5(e) of the Code. These terms are not included in the definition of the term "storehouse" because the Committee believes that the burglary laws are intended to reach an offense involving a vehicle or tent only if the vehicle or tent is a "dwelling", as this term has been defined in Kanaras v. State, 54 Md. App. 568, cert. denied, 297 Md. 109 (1983) and other related case law. If a vehicle or tent does not constitute a "dwelling", then an offense involving the breaking and entering of a vehicle or tent will not constitute a burglary offense. The Committee believes that other laws, such as the laws governing theft and malicious destruction of property, are intended to reach conduct involving the breaking and entering of a vehicle or tent that does not constitute a "dwelling".

Second, the definition of the term "storehouse" does not include a "public bridge", which is included in the definition of the term "structure" in Article 27, § 5(e) of the Code, because the Committee does not believe that a public bridge will ever constitute a dwelling or storehouse.

Third, the definition of the term "storehouse" does include a "trailer", which is not included as a specific item in the definition of the term "structure" in Article 27, § 5(e) of the Code, because the Committee believes that a trailer may, under certain circumstances, constitute a storehouse.

The Committee does not intend that this bill limit or "freeze" further development of the meaning of the terms "break", "enter", "dwelling", and "storehouse" in case law. Rather, the Committee expects that the meaning of these terms will continue to be clarified as appropriate in future case law.