

HOUSE BILL No. 1191

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-13.2; IC 35-43-2-2.

Synopsis: Criminal trespass and agricultural operations. Makes it criminal trespass, a Class A misdemeanor, for a person who does not have a contractual interest in the real property of another person that contains an agricultural operation to: (1) knowingly or intentionally enter the real property without the consent of the other person or the other person's agent or refuse to leave the real property after having been asked to leave by the other person or the other person's agent; and (2) knowingly or intentionally commit an act on the real property that causes the other person, a person who owns or operates a business or another enterprise on the real property, or a person who owns personal property located on the real property to suffer a pecuniary loss. Makes the offense a Level 6 felony if the pecuniary loss is at least \$2,500. Provides that, for purposes of the law concerning criminal trespass, a person is considered to have been denied entry to the real property of another person that contains an agricultural operation if the real property: (1) is enclosed by a lawful fence or an open or closed structure; (2) is visibly being used for purposes of cultivation; or (3) is visibly being used for purposes of timber management and the real property has been classified and recorded as native forest land or a forest plantation under the property tax law concerning the assessment of certain forest lands.

Effective: July 1, 2014.

Friend, Steuerwald, Lehe

January 14, 2014, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1191



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-31.5-2-13.2 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2014]: **Sec. 13.2. "Agricultural operation",**
- 4 **for purposes of IC 35-43-2-2, includes any facility used for the**
- 5 **production of crops, livestock, poultry, livestock products, poultry**
- 6 **products, or horticultural products or for growing timber.**
- 7 SECTION 2. IC 35-43-2-2, AS AMENDED BY P.L.203-2013,
- 8 SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION
- 9 462, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who:
- 11 (1) not having a contractual interest in the property, knowingly or
- 12 intentionally enters the real property of another person after
- 13 having been denied entry by the other person or that person's
- 14 agent;
- 15 (2) not having a contractual interest in the property, knowingly or
- 16 intentionally refuses to leave the real property of another person



- 1 after having been asked to leave by the other person or that
 2 person's agent;
 3 (3) accompanies another person in a vehicle, with knowledge that
 4 the other person knowingly or intentionally is exerting
 5 unauthorized control over the vehicle;
 6 (4) knowingly or intentionally interferes with the possession or
 7 use of the property of another person without the person's consent;
 8 (5) not having a contractual interest in the property, knowingly or
 9 intentionally enters the dwelling of another person without the
 10 person's consent;
 11 (6) knowingly or intentionally:
 12 (A) travels by train without lawful authority or the railroad
 13 carrier's consent; and
 14 (B) rides on the outside of a train or inside a passenger car,
 15 locomotive, or freight car, including a boxcar, flatbed, or
 16 container without lawful authority or the railroad carrier's
 17 consent;
 18 (7) not having a contractual interest in the property, knowingly or
 19 intentionally enters or refuses to leave the property of another
 20 person after having been prohibited from entering or asked to
 21 leave the property by a law enforcement officer when the property
 22 is ~~(A)~~ vacant or designated by a municipality or county
 23 enforcement authority to be abandoned property *and (B) subject*
 24 *to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8,*
 25 *IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined*
 26 *in IC 36-7-36-1); or*
 27 (8) knowingly or intentionally enters the property of another
 28 person after being denied entry by a court order that has been
 29 issued to the person or issued to the general public by
 30 conspicuous posting on or around the premises in areas where a
 31 person can observe the order when the property ~~(A)~~ has been
 32 designated by a municipality or county enforcement authority to
 33 be a vacant property, ~~or~~ an abandoned property, *and (B) is subject*
 34 *to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8,*
 35 *IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined*
 36 *in IC 36-7-36-1); or*
 37 (9) not having a contractual interest in the property:
 38 (A) knowingly or intentionally:
 39 (i) enters the real property of another person that
 40 contains an agricultural operation without the consent of
 41 the other person or the other person's agent; or
 42 (ii) refuses to leave the real property of another person



- 1 that contains an agricultural operation after having been
2 asked to leave by the other person or the other person's
3 agent; and
4 **(B) knowingly or intentionally commits an act on the real**
5 **property that causes:**
6 **(i) the other person;**
7 **(ii) a person who owns or operates a business or another**
8 **enterprise on the real property; or**
9 **(iii) a person who owns personal property located on the**
10 **real property;**
11 **to suffer a pecuniary loss;**
12 commits criminal trespass, a Class A misdemeanor.
13 **(b) However, the an offense under subsection (a) is a *Class D***
14 ***Level 6* felony if:**
15 **(1) it is committed:**
16 **(A) on a scientific research facility;**
17 **(B) on a key facility;**
18 **(C) on a facility belonging to a public utility (as defined in**
19 **IC 32-24-1-5.9(a));**
20 **(D) on school property; or**
21 **(E) on a school bus;**
22 **(2) it is committed under subsection (a)(9) and the pecuniary**
23 **loss is at least two thousand five hundred dollars (\$2,500); or**
24 **(3) the person who commits the offense has a prior unrelated**
25 **conviction for an offense under this section concerning the same**
26 **property.**
27 ~~(b)~~ **(c) A person has been denied entry under *subdivision* subsection**
28 **(a)(1): *of this section***
29 **(1) when the person has been denied entry by means of:**
30 ~~(1)~~ **(A) personal communication, oral or written;**
31 ~~(2)~~ **(B) posting or exhibiting a notice at the main entrance in**
32 **a manner that is either prescribed by law or likely to come to**
33 **the attention of the public; or**
34 ~~(3)~~ **(C) a hearing authority or court order under IC 32-30-6,**
35 **IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or**
36 **(2) if the real property contains an agricultural operation,**
37 **when the real property:**
38 **(A) is enclosed by:**
39 **(i) a lawful fence (as defined in IC 32-26-2-1); or**
40 **(ii) an open or closed structure;**
41 **(B) is visibly being used for purposes of cultivation; or**
42 **(C) is visibly being used for purposes of timber**



1 **management and the real property has been classified and**
 2 **recorded as:**

3 **(i) native forest land; or**

4 **(ii) a forest plantation;**

5 **under IC 6-1.1-6.**

6 ~~(e)~~ **(d)** A law enforcement officer may not deny entry to property or
 7 ask a person to leave a property under subsection (a)(7) unless there is
 8 reasonable suspicion that criminal activity has occurred or is occurring.

9 ~~(d)~~ **(e)** A person described in subsection (a)(7) violates subsection
 10 (a)(7) unless the person has the written permission of the owner,
 11 owner's agent, enforcement authority, or court to come onto the
 12 property for purposes of performing maintenance, repair, or demolition.

13 ~~(e)~~ **(f)** A person described in subsection (a)(8) violates subsection
 14 (a)(8) unless the court that issued the order denying the person entry
 15 grants permission for the person to come onto the property.

16 ~~(f)~~ **(g)** Subsections (a), ~~(b)~~, **(c)**, and ~~(e)~~ **(f)** do not apply to the
 17 following:

18 (1) A passenger on a train.

19 (2) An employee of a railroad carrier while engaged in the
 20 performance of official duties.

21 (3) A law enforcement officer, firefighter, or emergency response
 22 personnel while engaged in the performance of official duties.

23 (4) A person going on railroad property in an emergency to rescue
 24 a person or animal from harm's way or to remove an object that
 25 the person reasonably believes poses an imminent threat to life or
 26 limb.

27 (5) A person on the station grounds or in the depot of a railroad
 28 carrier:

29 (A) as a passenger; or

30 (B) for the purpose of transacting lawful business.

31 (6) A:

32 (A) person; or

33 (B) person's:

34 (i) family member;

35 (ii) invitee;

36 (iii) employee;

37 (iv) agent; or

38 (v) independent contractor;

39 going on a railroad's right-of-way for the purpose of crossing at a
 40 private crossing site approved by the railroad carrier to obtain
 41 access to land that the person owns, leases, or operates.

42 (7) A person having written permission from the railroad carrier



- 1 to go on specified railroad property.
- 2 (8) A representative of the Indiana department of transportation
- 3 while engaged in the performance of official duties.
- 4 (9) A representative of the federal Railroad Administration while
- 5 engaged in the performance of official duties.
- 6 (10) A representative of the National Transportation Safety Board
- 7 while engaged in the performance of official duties.

