

HOUSE BILL No. 1372

DIGEST OF INTRODUCED BILL

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

Synopsis: Crimes related to water safety equipment. Provides that if a person recklessly, knowingly, or intentionally damages a marine safety device at its designated location and the damage: (1) interferes with the proper use of the marine safety device; or (2) causes the marine safety device to be destroyed and rendered unusable; the person commits the offense of criminal mischief as a Level 6 felony. Provides that a person who removes a marine safety device from its designated location for a purpose other than using the device to rescue an individual from the water commits the offense of theft as a Level 6 felony.

Effective: July 1, 2018.

Pelath

January 16, 2018, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1372

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 35-31.5-2-90.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 90.5. "Designated location"**
4 **means the placement of a marine safety device that is installed by**
5 **an agency.**

6 SECTION 2. IC 35-31.5-2-195.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2018]: **Sec. 195.5. "Marine safety device"**
9 **means a device that is placed:**
10 **(1) on public property; and**
11 **(2) in a location owned or operated by an agency;**
12 **for use in rescuing individuals from the water.**

13 SECTION 3. IC 35-43-1-2, AS AMENDED BY P.L.252-2017,
14 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2018]: Sec. 2. (a) A person who recklessly, knowingly, or
16 intentionally damages or defaces property of another person without
17 the other person's consent commits criminal mischief, a Class B



- 1 misdemeanor. However, the offense is:
- 2 (1) a Class A misdemeanor if the pecuniary loss is at least seven
- 3 hundred fifty dollars (\$750) but less than fifty thousand dollars
- 4 (\$50,000); and
- 5 (2) a Level 6 felony if:
- 6 (A) the pecuniary loss is at least fifty thousand dollars
- 7 (\$50,000);
- 8 (B) the damage causes a substantial interruption or impairment
- 9 of utility service rendered to the public;
- 10 (C) the damage is to a public record; ~~or~~
- 11 (D) the damage is to a law enforcement animal (as defined in
- 12 IC 35-46-3-4.5); **or**
- 13 **(E) the damage is to a marine safety device at its**
- 14 **designated location and the damage:**
- 15 **(i) interferes with the proper use of the marine safety**
- 16 **device; or**
- 17 **(ii) causes the marine safety device to be destroyed and**
- 18 **rendered unusable.**
- 19 (b) A person who recklessly, knowingly, or intentionally damages:
- 20 (1) a structure used for religious worship without the consent of
- 21 the owner, possessor, or occupant of the property that is damaged;
- 22 (2) a school or community center without the consent of the
- 23 owner, possessor, or occupant of the property that is damaged;
- 24 (3) the property of an agricultural operation (as defined in
- 25 IC 32-30-6-1) without the consent of the owner, possessor, or
- 26 occupant of the property that is damaged;
- 27 (4) the grounds:
- 28 (A) adjacent to; and
- 29 (B) owned or rented in common with;
- 30 a structure or facility identified in subdivisions (1) through (3)
- 31 without the consent of the owner, possessor, or occupant of the
- 32 property that is damaged;
- 33 (5) personal property contained in a structure or located at a
- 34 facility identified in subdivisions (1) through (3) without the
- 35 consent of the owner, possessor, or occupant of the property that
- 36 is damaged;
- 37 (6) property that is vacant real property (as defined in
- 38 IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);
- 39 or
- 40 (7) property after the person has been denied entry to the property
- 41 by a court order that was issued:
- 42 (A) to the person; or



- 1 (B) to the general public by conspicuous posting on or around
 2 the property in areas where a person could observe the order
 3 when the property has been designated by a municipality or
 4 county enforcement authority to be a vacant property, an
 5 abandoned property, or an abandoned structure (as defined in
 6 IC 36-7-36-1);
 7 commits institutional criminal mischief, a Class A misdemeanor.
 8 However, the offense is a Level 6 felony if the pecuniary loss (or
 9 property damage, in the case of an agricultural operation) is at least
 10 seven hundred fifty dollars (\$750) but less than fifty thousand dollars
 11 (\$50,000), and a Level 5 felony if the pecuniary loss (or property
 12 damage, in the case of an agricultural operation) is at least fifty
 13 thousand dollars (\$50,000).
- 14 (c) A person who recklessly, knowingly, or intentionally damages
 15 property:
 16 (1) during the dealing or manufacture of or attempted dealing or
 17 manufacture of a controlled substance; and
 18 (2) by means of a fire or an explosion;
 19 commits controlled substances criminal mischief, a Level 6 felony.
 20 However, the offense is a Level 5 felony if the offense results in
 21 moderate bodily injury to any person other than a defendant.
- 22 (d) If a person is convicted of an offense under this section that
 23 involves the use of graffiti, the court may, in addition to any other
 24 penalty, order that the person's operator's license be suspended or
 25 invalidated by the bureau of motor vehicles for not more than one (1)
 26 year.
- 27 (e) The court may rescind an order for suspension or invalidation
 28 under subsection (d) and allow the person to receive a license or permit
 29 before the period of suspension or invalidation ends if the court
 30 determines that the person has removed or painted over the graffiti or
 31 has made other suitable restitution.
- 32 (f) For purposes of this section, "pecuniary loss" includes:
 33 (1) the total costs incurred in inspecting, cleaning, and
 34 decontaminating property contaminated by a pollutant; and
 35 (2) a reasonable estimate of all additional costs not already
 36 incurred under subdivision (1) that are necessary to inspect, clean,
 37 and decontaminate property contaminated by a pollutant, to the
 38 extent that the property has not already been:
 39 (A) cleaned;
 40 (B) decontaminated; or
 41 (C) both cleaned and decontaminated.
 42 The term includes inspection, cleaning, or decontamination conducted



1 by a person certified under IC 13-14-1-15.

2 SECTION 4. IC 35-43-4-2, AS AMENDED BY P.L.166-2017,
3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2018]: Sec. 2. (a) A person who knowingly or intentionally
5 exerts unauthorized control over property of another person, with intent
6 to deprive the other person of any part of its value or use, commits
7 theft, a Class A misdemeanor. However, the offense is:

8 (1) a Level 6 felony if:

9 (A) the value of the property is at least seven hundred fifty
10 dollars (\$750) and less than fifty thousand dollars (\$50,000);

11 (B) the property is a firearm; ~~or~~

12 (C) the person has a prior unrelated conviction for:

13 (i) theft under this section; or

14 (ii) criminal conversion under section 3 of this chapter; ~~and~~

15 **or**

16 **(D) the person removes a marine safety device from its**
17 **designated location and the removal is not for the purpose**
18 **of using the device to rescue an individual from the water;**
19 **and**

20 (2) a Level 5 felony if:

21 (A) the value of the property is at least fifty thousand dollars
22 (\$50,000); or

23 (B) the property that is the subject of the theft is a valuable
24 metal (as defined in IC 25-37.5-1-1) and:

25 (i) relates to transportation safety;

26 (ii) relates to public safety; or

27 (iii) is taken from a hospital or other health care facility,
28 telecommunications provider, public utility (as defined in
29 IC 32-24-1-5.9(a)), or key facility;

30 and the absence of the property creates a substantial risk of
31 bodily injury to a person.

32 (b) For purposes of this section, "the value of property" means:

33 (1) the fair market value of the property at the time and place the
34 offense was committed; or

35 (2) if the fair market value of the property cannot be satisfactorily
36 determined, the cost to replace the property within a reasonable
37 time after the offense was committed.

38 A price tag or price marking on property displayed or offered for sale
39 constitutes prima facie evidence of the value of the property.

