

HOUSE BILL No. 1354

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-3-15-3; IC 35-42-2-5.5; IC 35-43-2-2; IC 35-43-4-8.

Synopsis: Model state railroad trespass and vandalism act. Makes trespassing on railroad property a Class A misdemeanor. Makes it a Class C felony to recklessly, knowingly, or intentionally vandalize railroad property. Makes it a Class B felony to recklessly, knowingly, or intentionally vandalize railroad property if another person suffers serious bodily injury. Makes it a Class A felony to recklessly, knowingly, or intentionally vandalize railroad property if it results in the death of another person. Makes it a Class C felony to steal railroad property. Makes it a Class C felony to buy or receive stolen railroad property. Repeals the current railroad trespass statute.

Effective: July 1, 1998.

Crooks, Becker

January 13, 1998, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

HOUSE BILL No. 1354



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

1 SECTION 1. IC 35-42-2-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]: **Sec. 5.5. A person who recklessly, knowingly, or**
4 **intentionally:**
5 (1) **places an object on a railroad track or rail;**
6 (2) **drops or throws an object at a locomotive or train;**
7 (3) **takes, removes, defaces, alters, marks with graffiti, or**
8 **otherwise vandalizes a railroad sign, placard, or marker;**
9 (4) **shoots a firearm or other dangerous weapon at a**
10 **locomotive, railroad car, or train;**
11 (5) **removes an appurtenance from, resulting in damage or**
12 **impairment of the operation of a railroad signal system,**
13 **including a train control system, centralized dispatching**
14 **system, or highway-railroad grade crossing warning signal on**
15 **a railroad owned, leased, or operated by a railroad carrier,**
16 **without consent of the railroad carrier involved;**
17 (6) **interferes or tampers with, or obstructs in any way, a**

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1 switch, a frog, a rail, a roadbed, a sleeper, a viaduct, a bridge,
 2 a trestle, a culvert, an embankment, a structure, or an
 3 appliance pertaining to or connected with a railroad carrier,
 4 without consent of the railroad carrier involved; or

5 (7) takes, steals, removes, changes, adds to, alters, or
 6 interferes with a journal bearing, a brass, a waste, a packing,
 7 a triple valve, a pressure cock, a brake, an air hose, or another
 8 part of the operating mechanism of a locomotive, engine,
 9 tender, coach, car, caboose, or motor car used or capable of
 10 being used by a railroad carrier in Indiana without consent of
 11 the railroad carrier;

12 commits railroad mischief, a Class C felony. However, the offense
 13 is a Class B felony if it results in serious bodily injury to another
 14 person and a Class A felony if it results in the death of another
 15 person.

16 SECTION 2. IC 35-43-2-2, AS AMENDED BY P.L.1-1994,
 17 SECTION 168, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) A person who:

19 (1) not having a contractual interest in the property, knowingly or
 20 intentionally enters the real property of another person after
 21 having been denied entry by the other person or that person's
 22 agent;

23 (2) not having a contractual interest in the property, knowingly or
 24 intentionally refuses to leave the real property of another person
 25 after having been asked to leave by the other person or that
 26 person's agent;

27 (3) accompanies another person in a vehicle, with knowledge that
 28 the other person knowingly or intentionally is exerting
 29 unauthorized control over the vehicle;

30 (4) knowingly or intentionally interferes with the possession or
 31 use of the property of another person without the person's consent;

32 or

33 (5) not having a contractual interest in the property, knowingly or
 34 intentionally enters the dwelling of another person without the
 35 person's consent;

36 (6) knowingly or intentionally enters or remains on railroad
 37 property without lawful authority or the railroad carrier's
 38 consent and is:

39 (A) standing, sitting, resting, walking, jogging, running,
 40 driving, or operating a recreational or nonrecreational
 41 vehicle, including a bicycle, motorcycle, snowmobile, car,
 42 or truck; or



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1 **(B) engaging in recreational activity, including bicycling,**
 2 **hiking, fishing, camping, cross country skiing, or hunting;**
 3 **except for the purpose of crossing the property at a public**
 4 **highway or other authorized crossing; or**

5 **(7) knowingly or intentionally:**

6 **(A) travels by train without lawful authority or the**
 7 **railroad carrier's consent; and**

8 **(B) rides on the outside of a train or inside a passenger car,**
 9 **locomotive, or freight car, including a boxcar, flatbed, or**
 10 **container;**

11 commits criminal trespass, a Class A misdemeanor. However, the
 12 offense is a Class D felony if it is committed on a scientific research
 13 facility, on school property, or on a school bus or the person has a prior
 14 unrelated conviction for an offense under this section concerning the
 15 same property.

16 (b) A person has been denied entry under subdivision (a)(1) of this
 17 section when the person has been denied entry by means of:

18 (1) personal communication, oral or written; or

19 (2) posting or exhibiting a notice at the main entrance in a manner
 20 that is either prescribed by law or likely to come to the attention
 21 of the public.

22 (c) **Subsection (a)(6) and subsection (a)(7) do not apply to the**
 23 **following:**

24 **(1) A passenger on a train.**

25 **(2) An employee of a railroad carrier while engaged in the**
 26 **performance of official duties.**

27 **(3) A law enforcement officer, firefighter, or emergency**
 28 **response personnel while engaged in the performance of**
 29 **official duties.**

30 **(4) A person going on railroad property in an emergency to**
 31 **rescue a person or animal from harm's way or to remove an**
 32 **object that the person reasonably believes poses an imminent**
 33 **threat to life or limb.**

34 **(5) A person on the station grounds or in the depot of a**
 35 **railroad carrier:**

36 **(A) as a passenger; or**

37 **(B) for the purpose of transacting lawful business.**

38 **(6) A:**

39 **(A) person; or**

40 **(B) person's:**

41 **(i) family member;**

42 **(ii) invitee;**

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- 1 (iii) employee;
 2 (iv) agent; or
 3 (v) independent contractor;
 4 going on a railroad's right-of-way for the purpose of crossing
 5 at a private crossing site approved by the railroad carrier to
 6 obtain access to land that the person owns, leases, or operates.
 7 (7) A person having written permission from the railroad
 8 carrier to go on specified railroad property.
 9 (8) A representative of the Indiana department of
 10 transportation while engaged in the performance of official
 11 duties.
 12 (9) A representative of the federal Railroad Administration
 13 while engaged in the performance of official duties.
 14 (10) A representative of the National Transportation Safety
 15 Board while engaged in the performance of official duties.
 16 SECTION 3. IC 35-43-4-8 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 1998]: **Sec. 8. (a) A person who knowingly or intentionally exerts
 19 unauthorized control over railroad freight from a freight car,
 20 including a boxcar, container, or flatbed, with intent to deprive the
 21 owner of any part of its value or use, commits railroad theft, a
 22 Class C felony.**
 23 (b) A person who buys or receives railroad freight described in
 24 subsection (a), and who has reason to know that the freight was
 25 stolen, commits receiving stolen railroad property, a Class C
 26 felony.
 27 SECTION 4. IC 8-3-15-3 IS REPEALED [EFFECTIVE JULY 1,
 28 1998].

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