



April 6, 1999

ENGROSSED SENATE BILL No. 335

DIGEST OF SB 335 (Updated April 5, 1999 6:15 pm - DI 92)

Citations Affected: IC 8-3; IC 35-42; IC 35-43.

Synopsis: Railroad trespass and vandalism. Expands criminal trespass as a Class A misdemeanor to include knowingly or intentionally: (1) traveling by train without certain authority or consent; and (2) riding on the outside of a train or inside of a passenger car, locomotive, or freight care without the railroad carrier's consent. Makes certain exceptions. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class D felony. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class C felony if another person suffers serious bodily injury. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class B felony if it results in the death of another person. Provides that the railroad trespass statute does not apply to persons who make an incidental crossing of a railroad track when a train or railroad cars are not present.

Effective: July 1, 1999.

Wheeler

(HOUSE SPONSORS — CROOKS, LUTZ)

January 11, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

February 11, 1999, amended, reported favorably — Do Pass.

February 23, 1999, read second time, amended, ordered engrossed.

February 24, 1999, engrossed.

March 1, 1999, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Courts and Criminal Code.

April 5, 1999, amended, reported — Do Pass.

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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 335

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 8-3-15-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A person who rides, drives,
3 or walks on or along the right-of-way or yard of a railroad company at
4 a place other than a public crossing commits a Class B misdemeanor.
5 (b) "Right-of-way" means the track or roadbed owned or leased by
6 a railroad which is located on either side of its tracks and which is
7 readily recognizable to a reasonable person as being railroad property
8 or is reasonably identified as such by fencing or appropriate signs.
9 (c) "Yard" means a system of parallel tracks, cross-overs, and
10 switches where cars are switched and made up into trains, and where
11 cars, locomotives, and other rolling stock are kept when not in use or
12 awaiting repairs.
13 (d) This section does not apply to:
14 (1) passengers on trains or employees of a railroad company while
15 engaged in the performance of their duties;
16 (2) picketing by railroad employees in the vicinity of entrances to

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- 1 railroad company property;
 2 (3) an authorized representative of the railroad employees;
 3 (4) a person going upon the right-of-way or into the yard to save
 4 human life or to protect property;
 5 (5) a person being on the station grounds or in the depot of the
 6 railroad company as a passenger or for the purpose of transacting
 7 business;
 8 (6) a person, or the person's family or employees going upon the
 9 right-of-way for the purpose of crossing from one (1) part to
 10 another part of a farm the person owns or leases, where the farm
 11 lies on both sides of the right-of-way;
 12 (7) a person having written permission from the railroad company
 13 to go upon the right-of-way;
 14 (8) representatives of the Indiana department of transportation;
 15 (9) representatives of the ~~interstate commerce commission~~; or
 16 **federal Surface Transportation Board**;
 17 (10) a registered land surveyor or a land surveyor's employees
 18 who are on the right-of-way or in the yard for the purpose of
 19 making land surveys; or
 20 **(11) incidental crossing of the track when a train or railroad**
 21 **cars are not present.**

22 SECTION 2. IC 35-42-2-5.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 1999]: **Sec. 5.5. A person who recklessly, knowingly, or**
 25 **intentionally:**

- 26 **(1) removes an appurtenance from a railroad signal system,**
 27 **resulting in damage or impairment of the operation of the**
 28 **railroad signal system, including a train control system,**
 29 **centralized dispatching system, or highway-railroad grade**
 30 **crossing warning signal on a railroad owned, leased, or**
 31 **operated by a railroad carrier without consent of the railroad**
 32 **carrier involved;**
 33 **(2) tampers with or obstructs a switch, a frog, a rail, a**
 34 **roadbed, a crosstie, a viaduct, a bridge, a trestle, a culvert, an**
 35 **embankment, a structure, or an appliance pertaining to or**
 36 **connected with a railroad carrier without consent of the**
 37 **railroad carrier involved; or**
 38 **(3) steals, removes, alters, or interferes with a journal**
 39 **bearing, a brass, a waste, a packing, a triple valve, a pressure**
 40 **cock, a brake, an air hose, or another part of the operating**
 41 **mechanism of a locomotive, an engine, a tender, a coach, a**
 42 **car, a caboose, or a motor car used or capable of being used**



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1 **by a railroad carrier in Indiana without consent of the**
 2 **railroad carrier;**
 3 **commits railroad mischief, a Class D felony. However, the offense**
 4 **is a Class C felony if it results in serious bodily injury to another**
 5 **person and a Class B felony if it results in the death of another**
 6 **person.**

7 SECTION 3. IC 35-43-2-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) A person who:

9 (1) not having a contractual interest in the property, knowingly or
 10 intentionally enters the real property of another person after
 11 having been denied entry by the other person or that person's
 12 agent;

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

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

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

22 **or**

23 (5) not having a contractual interest in the property, knowingly or
 24 intentionally enters the dwelling of another person without the
 25 person's consent; **or**

26 **(6) knowingly or intentionally:**

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

29 **(B) rides on the outside of a train or inside a passenger car,**
 30 **locomotive, or freight car, including a boxcar, flatbed, or**
 31 **container without lawful authority or the railroad carrier's**
 32 **consent;**

33 commits criminal trespass, a Class A misdemeanor. However, the
 34 offense is a Class D felony if it is committed on a scientific research
 35 facility, on school property, or on a school bus or the person has a prior
 36 unrelated conviction for an offense under this section concerning the
 37 same property.

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

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

41 (2) posting or exhibiting a notice at the main entrance in a manner
 42 that is either prescribed by law or likely to come to the attention

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- 1 of the public.
- 2 (c) Subsections (a) and (b) do not apply to the following:
- 3 (1) A passenger on a train.
- 4 (2) An employee of a railroad carrier while engaged in the
- 5 performance of official duties.
- 6 (3) A law enforcement officer, firefighter, or emergency
- 7 response personnel while engaged in the performance of
- 8 official duties.
- 9 (4) A person going on railroad property in an emergency to
- 10 rescue a person or animal from harm's way or to remove an
- 11 object that the person reasonably believes poses an imminent
- 12 threat to life or limb.
- 13 (5) A person on the station grounds or in the depot of a
- 14 railroad carrier:
- 15 (A) as a passenger; or
- 16 (B) for the purpose of transacting lawful business.
- 17 (6) A:
- 18 (A) person; or
- 19 (B) person's:
- 20 (i) family member;
- 21 (ii) invitee;
- 22 (iii) employee;
- 23 (iv) agent; or
- 24 (v) independent contractor;
- 25 going on a railroad's right-of-way for the purpose of crossing
- 26 at a private crossing site approved by the railroad carrier to
- 27 obtain access to land that the person owns, leases, or operates.
- 28 (7) A person having written permission from the railroad
- 29 carrier to go on specified railroad property.
- 30 (8) A representative of the Indiana department of
- 31 transportation while engaged in the performance of official
- 32 duties.
- 33 (9) A representative of the federal Railroad Administration
- 34 while engaged in the performance of official duties.
- 35 (10) A representative of the National Transportation Safety
- 36 Board while engaged in the performance of official duties.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 335, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-3-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A person who rides, drives, or walks on or along the right-of-way or yard of a railroad company at a place other than a public crossing commits a Class B misdemeanor.

(b) "Right-of-way" means the track or roadbed owned or leased by a railroad which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(c) "Yard" means a system of parallel tracks, cross-overs, and switches where cars are switched and made up into trains, and where cars, locomotives, and other rolling stock are kept when not in use or awaiting repairs.

(d) This section does not apply to:

- (1) passengers on trains or employees of a railroad company while engaged in the performance of their duties;
- (2) picketing by railroad employees in the vicinity of entrances to railroad company property;
- (3) an authorized representative of the railroad employees;
- (4) a person going upon the right-of-way or into the yard to save human life or to protect property;
- (5) a person being on the station grounds or in the depot of the railroad company as a passenger or for the purpose of transacting business;
- (6) a person, or the person's family or employees going upon the right-of-way for the purpose of crossing from one (1) part to another part of a farm the person owns or leases, where the farm lies on both sides of the right-of-way;
- (7) a person having written permission from the railroad company to go upon the right-of-way;
- (8) representatives of the Indiana department of transportation;
- (9) representatives of the interstate commerce commission; ~~or~~
- (10) a registered land surveyor or a land surveyor's employees who are on the right-of-way or in the yard for the purpose of

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making land surveys; **or**
(11) incidental crossing of the track when a train or railroad cars are not present."

Page 1, delete lines 5 through 10.

Page 1, line 11, delete "(5)" and insert "**(1)**".

Page 2, line 1, delete "(6) interferes or" and insert "**(2)**".

Page 2, line 1, delete "in any way,".

Page 2, line 6, delete "(7) takes," and insert "**(3)**".

Page 2, line 6, delete "changes, adds to,".

Page 2, line 13, delete "Class C" and insert "**Class D**".

Page 2, line 14, delete "Class B" and insert "**Class C**".

Page 2, line 15, delete "Class A" and insert "**Class B**".

Page 2, line 35, after "consent;" insert "**or**".

Page 2, delete lines 36 through 42.

Page 3, delete lines 1 through 4.

Page 3, line 5, delete "(7)" and insert "**(6)**".

Page 3, line 23, delete "Subsection (a)(6) and (a)(7)" and insert "**Subsections (a) and (b)**".

Page 4, line 25, delete "Class C" and insert "**Class D**".

Page 4, delete lines 26 through 27.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 335 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 335 be amended to read as follows:

Page 2, line 16, strike "interstate commerce commission;"

Page 2, line 16, after "or" insert "**federal Surface Transportation Board;**".

Page 2, line 34, delete "sleeper," and insert "**crosstie,**".

(Reference is to SB 335 as printed February 12, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, after "with" delete ",".

Page 2, line 37, after "carrier" delete ",".

Page 4, delete lines 38 through 42.

Delete page 5.

and when so amended that said bill do pass.

(Reference is to SB 335 as reprinted February 24, 1999.)

DVORAK, Chair

Committee Vote: yeas 10, nays 1.

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