

# SENATE BILL No. 335

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## 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:** Railroad trespass and vandalism. Makes trespassing on railroad property a Class A misdemeanor. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class C felony. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class B felony if another person suffers serious bodily injury. Makes recklessly, knowingly, or intentionally vandalizing railroad property a Class A felony if it results in the death of another person. Makes stealing railroad property a Class C felony. Makes buying or receiving stolen railroad property a Class C felony. Repeals the current railroad trespass statute.

**Effective:** July 1, 1999.

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## Wheeler

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January 8, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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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.

## 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 35-42-2-5.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **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 a railroad signal system,**  
12 **resulting in damage or impairment of the operation of the**  
13 **railroad signal system, including a train control system,**  
14 **centralized dispatching system, or highway-railroad grade**  
15 **crossing warning signal on a railroad owned, leased, or**  
16 **operated by a railroad carrier without consent of the railroad**  
17 **carrier involved;**



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1           **(6) interferes or tampers with, or obstructs in any way, a**  
 2           **switch, a frog, a rail, a roadbed, a sleeper, a viaduct, a bridge,**  
 3           **a trestle, a culvert, an embankment, a structure, or an**  
 4           **appliance pertaining to or connected with a railroad carrier,**  
 5           **without consent of the railroad carrier involved; or**

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

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

17           SECTION 2. IC 35-43-2-2 IS AMENDED TO READ AS  
 18           FOLLOWS [EFFECTIVE JULY 1, 1999]: 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 without lawful authority or the railroad carrier's**  
 11           **consent;**

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

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

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

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

23           **(c) Subsection (a)(6) and (a)(7) do not apply to the 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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- (iii) employee;
  - (iv) agent; or
  - (v) independent contractor;
- going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.
- (7) A person having written permission from the railroad carrier to go on specified railroad property.
- (8) A representative of the Indiana department of transportation while engaged in the performance of official duties.
- (9) A representative of the federal Railroad Administration while engaged in the performance of official duties.
- (10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

SECTION 3. IC 35-43-4-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A person who knowingly or intentionally exerts unauthorized control over railroad freight from a freight car, including a boxcar, container, or flatbed, with intent to deprive the owner of any part of its value or use, commits railroad theft, a Class C felony.

(b) A person who buys or receives railroad freight described in subsection (a) and who has reason to know that the freight was stolen commits receiving stolen railroad property, a Class C felony.

SECTION 4. IC 8-3-15-3 IS REPEALED [EFFECTIVE JULY 1, 1999].

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