



Reprinted  
February 24, 1999

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## SENATE BILL No. 335

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DIGEST OF SB 335 (Updated February 23, 1999 3:06 pm - DI 51)

**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 car 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. Makes stealing railroad property a Class C felony. Makes buying or receiving stolen railroad property a Class D felony. Provides that the railroad trespass statute does not apply to persons who make an incidental crossing of a railroad track when a  
(Continued next page)

**Effective:** July 1, 1999.

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### Wheeler

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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.

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train or railroad cars are not present.

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Reprinted  
February 24, 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.

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## SENATE BILL No. 335

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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;

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- 1 (2) picketing by railroad employees in the vicinity of entrances to  
 2 railroad company property;  
 3 (3) an authorized representative of the railroad employees;  
 4 (4) a person going upon the right-of-way or into the yard to save  
 5 human life or to protect property;  
 6 (5) a person being on the station grounds or in the depot of the  
 7 railroad company as a passenger or for the purpose of transacting  
 8 business;  
 9 (6) a person, or the person's family or employees going upon the  
 10 right-of-way for the purpose of crossing from one (1) part to  
 11 another part of a farm the person owns or leases, where the farm  
 12 lies on both sides of the right-of-way;  
 13 (7) a person having written permission from the railroad company  
 14 to go upon the right-of-way;  
 15 (8) representatives of the Indiana department of transportation;  
 16 (9) representatives of the ~~interstate commerce commission~~; or  
 17 **federal Surface Transportation Board**;  
 18 (10) a registered land surveyor or a land surveyor's employees  
 19 who are on the right-of-way or in the yard for the purpose of  
 20 making land surveys; or  
 21 **(11) incidental crossing of the track when a train or railroad**  
 22 **cars are not present.**
- 23 SECTION 2. IC 35-42-2-5.5 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 1999]: **Sec. 5.5. A person who recklessly, knowingly, or**  
 26 **intentionally:**
- 27 (1) **removes an appurtenance from a railroad signal system,**  
 28 **resulting in damage or impairment of the operation of the**  
 29 **railroad signal system, including a train control system,**  
 30 **centralized dispatching system, or highway-railroad grade**  
 31 **crossing warning signal on a railroad owned, leased, or**  
 32 **operated by a railroad carrier without consent of the railroad**  
 33 **carrier involved;**  
 34 (2) **tampers with, or obstructs a switch, a frog, a rail, a**  
 35 **roadbed, a crosstie, a viaduct, a bridge, a trestle, a culvert, an**  
 36 **embankment, a structure, or an appliance pertaining to or**  
 37 **connected with a railroad carrier, without consent of the**  
 38 **railroad carrier involved; or**  
 39 (3) **steals, removes, alters, or interferes with a journal**  
 40 **bearing, a brass, a waste, a packing, a triple valve, a pressure**  
 41 **cock, a brake, an air hose, or another part of the operating**  
 42 **mechanism of a locomotive, an engine, a tender, a coach, a**

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

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

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

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

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

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

23            ~~or~~

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

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

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

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

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

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

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

42            (2) posting or exhibiting a notice at the main entrance in a manner

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- 1 that is either prescribed by law or likely to come to the attention  
 2 of the public.
- 3 **(c) Subsections (a) and (b) do not apply to the following:**
- 4 **(1) A passenger on a train.**
- 5 **(2) An employee of a railroad carrier while engaged in the**  
 6 **performance of official duties.**
- 7 **(3) A law enforcement officer, firefighter, or emergency**  
 8 **response personnel while engaged in the performance of**  
 9 **official duties.**
- 10 **(4) A person going on railroad property in an emergency to**  
 11 **rescue a person or animal from harm's way or to remove an**  
 12 **object that the person reasonably believes poses an imminent**  
 13 **threat to life or limb.**
- 14 **(5) A person on the station grounds or in the depot of a**  
 15 **railroad carrier:**
- 16 **(A) as a passenger; or**
- 17 **(B) for the purpose of transacting lawful business.**
- 18 **(6) A:**
- 19 **(A) person; or**
- 20 **(B) person's:**
- 21 **(i) family member;**
- 22 **(ii) invitee;**
- 23 **(iii) employee;**
- 24 **(iv) agent; or**
- 25 **(v) independent contractor;**
- 26 **going on a railroad's right-of-way for the purpose of crossing**  
 27 **at a private crossing site approved by the railroad carrier to**  
 28 **obtain access to land that the person owns, leases, or operates.**
- 29 **(7) A person having written permission from the railroad**  
 30 **carrier to go on specified railroad property.**
- 31 **(8) A representative of the Indiana department of**  
 32 **transportation while engaged in the performance of official**  
 33 **duties.**
- 34 **(9) A representative of the federal Railroad Administration**  
 35 **while engaged in the performance of official duties.**
- 36 **(10) A representative of the National Transportation Safety**  
 37 **Board while engaged in the performance of official duties.**
- 38 **SECTION 4. IC 35-43-4-8 IS ADDED TO THE INDIANA CODE**  
 39 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**  
 40 **1, 1999]: Sec. 8. (a) A person who knowingly or intentionally exerts**  
 41 **unauthorized control over railroad freight from a freight car,**  
 42 **including a boxcar, container, or flatbed, with intent to deprive the**

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1 owner of any part of its value or use, commits railroad theft, a  
2 Class C felony.

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

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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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