



Reprinted  
February 20, 2013

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## SENATE BILL No. 373

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DIGEST OF SB 373 (Updated February 19, 2013 3:06 pm - DI 106)

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

**Synopsis:** Agricultural and industrial operations. Makes it unlawful recording of agricultural or industrial operations, a Class A infraction, for a person, with intent to harass, defame, annoy, or harm, to: (1) enter real property that is owned by another person and on which agricultural operations or industrial operations are being conducted; (2) take a photograph of or make a video recording or motion picture of the real property, structures located on the real property, or the agricultural operations or industrial operations being conducted on the real property; and (3) distribute the photograph or recording; without the written consent of the owner of the real property or an authorized representative of the owner. Increases the penalty to a Class B misdemeanor if the offense is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction. Establishes a defense if the person: (1) has a good faith belief that the person was recording evidence of illegal activity; (2) provides the recording to a law enforcement or regulatory agency within 48 hours; and (3) does not distribute the recording to anyone other than a law enforcement or regulatory agency.

**Effective:** July 1, 2013.

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### Holdman

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January 8, 2013, read first time and referred to Committee on Corrections & Criminal Law.  
February 14, 2013, amended, reported favorably — Do Pass.  
February 19, 2013, read second time, amended, ordered engrossed.

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SB 373—LS 7198/DI 69+



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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

## SENATE BILL No. 373

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 35-31.5-2-13.3 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2013]: **Sec. 13.3. "Agricultural operations"**,  
4 **for purposes of IC 35-43-2-2.5, has the meaning set forth in**  
5 **IC 35-43-2-2.5(b).**

6 SECTION 2. IC 35-31.5-2-169.3 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2013]: **Sec. 169.3. "Industrial operations"**,  
9 **for purposes of IC 35-43-2-2.5, has the meaning set forth in**  
10 **IC 35-43-2-2.5(c).**

11 SECTION 3. IC 35-43-2-2.5 IS ADDED TO THE INDIANA CODE  
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2013]: **Sec. 2.5. (a) This section does not apply to the following:**  
14 **(1) A law enforcement officer, a federal enforcement officer,**  
15 **or any other federal, state, or local government employee**  
16 **while the officer or employee is engaged in the performance**  
17 **of the officer's or employee's official duties.**

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1 (2) A land surveyor or any personnel acting under the  
2 supervision of a land surveyor as provided in:

3 (A) IC 25-21.5-9-7; and

4 (B) IC 25-21.5-9-8.

5 (3) An employee of an agricultural or industrial operation  
6 who is acting within the scope of the employee's employment.

7 (b) As used in this section, "agricultural operations" means:

8 (1) the production of:

9 (A) crops;

10 (B) livestock;

11 (C) poultry;

12 (D) livestock products;

13 (E) poultry products; or

14 (F) horticultural products; or

15 (2) growing timber.

16 (c) As used in this section, "industrial operations" means the:

17 (1) manufacture of a product from other products;

18 (2) transformation of a material from one (1) form to another;

19 (3) mining of a material and related mine activities; or

20 (4) storage or disposition of a product or material.

21 (d) A person who, with intent to harass, defame, annoy, or  
22 harm, knowingly or intentionally:

23 (1) enters real property:

24 (A) that is owned by another person; and

25 (B) on which agricultural operations or industrial  
26 operations are being conducted;

27 (2) takes a digital or analog photograph of or makes a digital  
28 or analog video recording or motion picture of:

29 (A) the real property;

30 (B) structures located on the real property; or

31 (C) the agricultural operations or industrial operations  
32 being conducted on the real property; and

33 (3) distributes, disseminates, or transfers the image,  
34 photograph, video recording, or motion picture;

35 without the written consent of the owner of the real property or an  
36 authorized representative of the owner commits unlawful  
37 recording of agricultural or industrial operations, a Class A  
38 infraction. However, the offense is a Class B misdemeanor if it is  
39 committed knowingly or intentionally and the person has a prior  
40 unrelated judgment or conviction for a violation of this section.

41 (e) It is a defense to an action or prosecution under this section  
42 that the person:

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1           **(1) had a good faith belief that the person was photographing,**  
2           **recording, or filming evidence of illegal activity;**  
3           **(2) provided the photograph, recording, or motion picture to:**  
4                 **(A) a law enforcement agency; or**  
5                 **(B) an agency with regulatory oversight of the industrial or**  
6                 **agricultural operation;**  
7           **not later than forty-eight (48) hours after the person left the**  
8           **property or premises of the agricultural or industrial**  
9           **operation; and**  
10           **(3) did not distribute or disseminate the photograph,**  
11           **recording, or motion picture to a person that is not a law**  
12           **enforcement officer or an agency with regulatory oversight of**  
13           **the industrial or agricultural operation.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 373, 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 2, between lines 4 and 5, begin a new line block indented and insert:

**"(3) An employee of an agricultural or industrial operation who is acting within the scope of the employee's employment."**

Page 2, line 19, after "who" insert **", with intent to harass, defame, annoy, or harm,"**.

Page 2, line 23, delete "and".

Page 2, line 29, after "property;" insert **"and**

**(3) distributes, disseminates, or transfers the image, photograph, video recording, or motion picture;"**.

Page 2, line 33, delete "misdemeanor." and insert **"infraction. However, the offense is a Class B misdemeanor if it is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction for a violation of this section."**

and when so amended that said bill do pass.

(Reference is to SB 373 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 7, Nays 2.

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 SENATE MOTION

Madam President: I move that Senate Bill 373 be amended to read as follows:

Page 2, after line 40, begin a new paragraph and insert:

**"(e) It is a defense to an action or prosecution under this section that the person:**

- (1) had a good faith belief that the person was photographing, recording, or filming evidence of illegal activity;**
- (2) provided the photograph, recording, or motion picture to:**
  - (A) a law enforcement agency; or**
  - (B) an agency with regulatory oversight of the industrial or**

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**agricultural operation;  
not later than forty-eight (48) hours after the person left the  
property or premises of the agricultural or industrial  
operation; and  
(3) did not distribute or disseminate the photograph,  
recording, or motion picture to a person that is not a law  
enforcement officer or an agency with regulatory oversight of  
the industrial or agricultural operation."**

(Reference is to SB 373 as printed February 15, 2013.)

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