

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## SENATE ENROLLED ACT No. 101

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AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-31.5-2-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2014]: **Sec. 24.5. "Authorized person", for purposes of IC 35-43-2-2, has the meaning set forth in IC 35-43-2-2(a).**

SECTION 2. IC 35-43-1-2, AS AMENDED BY P.L.158-2013, SECTION 453, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent commits criminal mischief, a Class B misdemeanor. However, the offense is:

- (1) a Class A misdemeanor if the pecuniary loss is at least ~~two hundred fifty dollars (\$250)~~ **seven hundred fifty dollars (\$750)** but less than ~~two thousand five hundred dollars (\$2,500)~~; **fifty thousand dollars (\$50,000)**; and
- (2) a Level 6 felony if:
  - (A) the pecuniary loss is at least ~~two thousand five hundred dollars (\$2,500)~~; **fifty thousand dollars (\$50,000)**;
  - (B) the damage causes a substantial interruption or impairment of utility service rendered to the public;
  - (C) the damage is to a public record; or

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(D) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5).

- (b) A person who recklessly, knowingly, or intentionally damages:
- (1) a structure used for religious worship;
  - (2) a school or community center;
  - (3) the property of an agricultural operation (as defined in IC 32-30-6-1);**
  - ~~(3)~~ **(4) the grounds:**
    - (A) adjacent to; and
    - (B) owned or rented in common with;
- a structure or facility identified in ~~subdivision~~ **subdivisions (1) or ~~(2)~~; through (3);** or
- ~~(4)~~ **(5) personal property contained in a structure or located at a facility identified in ~~subdivision~~ subdivisions (1) or ~~(2)~~; through (3);**

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Level 6 felony if the pecuniary loss **(or property damage, in the case of an agricultural operation)** is at least ~~two hundred fifty dollars (\$250)~~ **seven hundred fifty dollars (\$750)** but less than ~~two thousand five hundred dollars (\$2,500);~~ **fifty thousand dollars (\$50,000)**, and a Level 5 felony if the pecuniary loss **(or property damage, in the case of an agricultural operation)** is at least ~~two thousand five hundred dollars (\$2,500);~~ **fifty thousand dollars (\$50,000)**.

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that the person has removed or painted over the graffiti or has made other suitable restitution.

SECTION 3. IC 35-43-2-2, AS AMENDED BY P.L.203-2013, SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION 462, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) As used in this section, "authorized person" means a person authorized by an agricultural operation to act on behalf of the agricultural operation.**

- ~~(a)~~ **(b) A person who:**

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

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

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

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

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

**(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner of the agricultural operation or an authorized person; or**

**(B) dwelling of another person without the person's consent;**

(6) knowingly or intentionally:

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

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

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is ~~(A)~~ vacant or designated by a municipality or county enforcement authority to be abandoned property *and (B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined in IC 36-7-36-1); or*

**(8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the**



**permission of the owner of the agricultural operation or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to:**

**(A) the owner of or a person having a contractual interest in the agricultural operation;**

**(B) the operator of the agricultural operation; or**

**(C) a person having personal property located on the property of the agricultural operation; or**

~~(8)~~ **(9)** knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property ~~(A)~~ has been designated by a municipality or county enforcement authority to be a vacant property, ~~or~~ an abandoned property, *and (B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined in IC 36-7-36-1);*

commits criminal trespass, a Class A misdemeanor. However, the offense is a ~~Class D~~ **Level 6** felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property. **The offense is a Level 6 felony, for purposes of subdivision (8), if the property damage is more than seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). The offense is a Level 5 felony, for purposes of subdivision (8), if the property damage is at least fifty thousand dollars (\$50,000).**

~~(b)~~ **(c)** A person has been denied entry under ~~subdivision subsection (a)(1) of this section~~ **(b)(1)** when the person has been denied entry by means of:

(1) personal communication, oral or written;

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

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

~~(e)~~ **(d)** A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection ~~(a)(7)~~ **(b)(7)** unless there is reasonable suspicion that criminal activity has occurred or is occurring.

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~~(d)~~ (e) A person described in subsection ~~(a)(7)~~ (b)(7) violates subsection ~~(a)(7)~~ (b)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

~~(e)~~ (f) A person described in subsection ~~(a)(8)~~ (b)(9) violates subsection ~~(a)(8)~~ (b)(9) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

~~(f)~~ (g) Subsections ~~(a)~~, (b), (c), and ~~(e)~~ (f) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.
- (5) A person on the station grounds or in the depot of a railroad carrier:
  - (A) as a passenger; or
  - (B) for the purpose of transacting lawful business.
- (6) A:
  - (A) person; or
  - (B) person's:
    - (i) family member;
    - (ii) invitee;
    - (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.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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