

# PROPOSED AMENDMENT

## SB 293 # 2

### DIGEST

Trespass. Deletes the existing bill and provides that a person who knowingly or intentionally enters or refuses to leave certain restricted areas of a property commits the offense of criminal trespass.

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- 1 Delete everything after the enacting clause and insert the following:  
2 SECTION 1. IC 35-43-2-2, AS AMENDED BY P.L.79-2023,  
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2024]: Sec. 2. (a) As used in this section, "authorized person"  
5 means a person authorized by an agricultural operation or a scientific  
6 research facility to act on behalf of the agricultural operation or the  
7 scientific research facility.  
8 (b) 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 (5) not having a contractual interest in the property, knowingly or  
23 intentionally enters the:  
24 (A) property of an agricultural operation that is used for the  
25 production, processing, propagation, packaging, cultivation,

- 1 harvesting, care, management, or storage of an animal, plant,  
2 or other agricultural product, including any pasturage or land  
3 used for timber management, without the consent of the owner  
4 of the agricultural operation or an authorized person; or  
5 (B) dwelling of another person without the person's consent;  
6 (6) knowingly or intentionally:  
7 (A) travels by train without lawful authority or the railroad  
8 carrier's consent; and  
9 (B) rides on the outside of a train or inside a passenger car,  
10 locomotive, or freight car, including a boxcar, flatbed, or  
11 container without lawful authority or the railroad carrier's  
12 consent;  
13 (7) not having a contractual interest in the property, knowingly or  
14 intentionally enters or refuses to leave the property of another  
15 person after having been prohibited from entering or asked to  
16 leave the property by a law enforcement officer when the property  
17 is:  
18 (A) vacant real property (as defined in IC 36-7-36-5) or a  
19 vacant structure (as defined in IC 36-7-36-6); or  
20 (B) designated by a municipality or county enforcement  
21 authority to be:  
22 (i) abandoned property or an abandoned structure (as  
23 defined in IC 36-7-36-1); or  
24 (ii) an unsafe building or an unsafe premises (as described  
25 in IC 36-7-9);  
26 (8) not having a contractual interest in the property, knowingly or  
27 intentionally enters the real property of an agricultural operation  
28 (as defined in IC 32-30-6-1) without the permission of the owner  
29 of the agricultural operation or an authorized person, and  
30 knowingly or intentionally engages in conduct that causes  
31 property damage to:  
32 (A) the owner of or a person having a contractual interest in  
33 the agricultural operation;  
34 (B) the operator of the agricultural operation; or  
35 (C) a person having personal property located on the property  
36 of the agricultural operation;  
37 (9) not having a contractual interest in the property, knowingly or  
38 intentionally enters the real property of a scientific research  
39 facility (as defined in IC 35-31.5-2-287) without the permission  
40 of, or with permission which was fraudulently obtained from, the

1 owner of the scientific research facility or an authorized person,  
 2 and knowingly or intentionally engages in conduct that causes  
 3 property damage to:

4 (A) the owner of or a person having a contractual interest in  
 5 the scientific research facility;

6 (B) the operator of the scientific research facility; or

7 (C) a person having personal property located on the property  
 8 of the scientific research facility;

9 (10) knowingly or intentionally enters the property of another  
 10 person after being denied entry by a court order that has been  
 11 issued to the person or issued to the general public by  
 12 conspicuous posting on or around the premises in areas where a  
 13 person can observe the order when the property has been  
 14 designated by a municipality or county enforcement authority to  
 15 be:

16 (A) a vacant property;

17 (B) an abandoned property;

18 (C) an abandoned structure (as defined in IC 36-7-36-1); or

19 (D) an unsafe building or an unsafe premises (as described in  
 20 IC 36-7-9); or

21 (11) knowingly or intentionally enters or refuses to leave the polls  
 22 (as defined in IC 3-5-2-39) or chute (as defined in IC 3-5-2-10)  
 23 after having been prohibited from entering or asked to leave the  
 24 polls or chute by a precinct election officer (as defined in  
 25 IC 3-5-2-40.1) or a law enforcement officer acting on behalf of a  
 26 precinct election officer; or

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

28 **(A) enters and refuses to leave an area of a property that**  
 29 **is marked as restricted;**

30 **(B) enters or refuses to leave an area of a property**  
 31 **designated as employee or authorized personnel only; or**

32 **(C) enters or refuses to leave an area of a property that is**  
 33 **locked or otherwise not accessible to the public;**

34 **without permission or prior authorization or after being**  
 35 **asked to leave the area of a property by a law enforcement**  
 36 **officer or an employee or agent of the owner or operator of**  
 37 **the property;**

38 commits criminal trespass, a Class A misdemeanor. However, the  
 39 offense is a Level 6 felony if it is committed on a scientific research  
 40 facility, on a facility belonging to a public utility (as defined in

1 IC 32-24-1-5.9(a)), on school property, or on a school bus or the person  
2 has a prior unrelated conviction for an offense under this section  
3 concerning the same property. The offense is a Level 6 felony, for  
4 purposes of subdivision (8), if the property damage is more than seven  
5 hundred fifty dollars (\$750) and less than fifty thousand dollars  
6 (\$50,000). The offense is a Level 5 felony, for purposes of subdivisions  
7 (8) and (9), if the property damage is at least fifty thousand dollars  
8 (\$50,000).

9 (c) A person has been denied entry under subsection (b)(1) when the  
10 person has been denied entry by means of:

- 11 (1) personal communication, oral or written;
- 12 (2) posting or exhibiting a notice at the main entrance in a manner  
13 that is either prescribed by law or likely to come to the attention  
14 of the public;
- 15 (3) a hearing authority or court order under IC 32-30-6,  
16 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
- 17 (4) posting the property by placing identifying purple marks on  
18 trees or posts around the area where entry is denied.

19 (d) For the purposes of subsection (c)(4):

20 (1) each purple mark must be readily visible to any person  
21 approaching the property and must be placed:

22 (A) on a tree:

- 23 (i) as a vertical line of at least eight (8) inches in length and  
24 with the bottom of the mark at least three (3) feet and not  
25 more than five (5) feet from the ground; and
- 26 (ii) not more than one hundred (100) feet from the nearest  
27 other marked tree; or

28 (B) on a post:

- 29 (i) with the mark covering at least the top two (2) inches of  
30 the post, and with the bottom of the mark at least three (3)  
31 feet and not more than five (5) feet six (6) inches from the  
32 ground; and
- 33 (ii) not more than thirty-six (36) feet from the nearest other  
34 marked post; and

35 (2) before a purple mark that would be visible from both sides of  
36 a fence shared by different property owners or lessees may be  
37 applied, all of the owners or lessees of the properties must agree  
38 to post the properties with purple marks under subsection (c)(4).

39 (e) A law enforcement officer may not deny entry to property or ask  
40 a person to leave a property under subsection (b)(7) unless there is

- 1 reasonable suspicion that criminal activity has occurred or is occurring.
- 2 (f) A person described in subsection (b)(7) or (b)(10) violates
- 3 subsection (b)(7) or (b)(10), as applicable, unless the person has the
- 4 written permission of the owner, the owner's agent, an enforcement
- 5 authority, or a court to come onto the property for purposes of
- 6 performing maintenance, repair, or demolition.
- 7 (g) A person described in subsection (b)(10) violates subsection
- 8 (b)(10) unless the court that issued the order denying the person entry
- 9 grants permission for the person to come onto the property.
- 10 (h) Subsections (b), (c), and (g) do not apply to the following:
- 11 (1) A passenger on a train.
- 12 (2) An employee of a railroad carrier while engaged in the
- 13 performance of official duties.
- 14 (3) A law enforcement officer, firefighter, or emergency response
- 15 personnel while engaged in the performance of official duties.
- 16 (4) A person going on railroad property in an emergency to rescue
- 17 a person or animal from harm's way or to remove an object that
- 18 the person reasonably believes poses an imminent threat to life or
- 19 limb.
- 20 (5) A person on the station grounds or in the depot of a railroad
- 21 carrier:
- 22 (A) as a passenger; or
- 23 (B) for the purpose of transacting lawful business.
- 24 (6) A:
- 25 (A) person; or
- 26 (B) person's:
- 27 (i) family member;
- 28 (ii) invitee;
- 29 (iii) employee;
- 30 (iv) agent; or
- 31 (v) independent contractor;
- 32 going on a railroad's right-of-way for the purpose of crossing at a
- 33 private crossing site approved by the railroad carrier to obtain
- 34 access to land that the person owns, leases, or operates.
- 35 (7) A person having written permission from the railroad carrier
- 36 to go on specified railroad property.
- 37 (8) A representative of the Indiana department of transportation
- 38 while engaged in the performance of official duties.
- 39 (9) A representative of the federal Railroad Administration while
- 40 engaged in the performance of official duties.

- 1 (10) A representative of the National Transportation Safety Board
- 2 while engaged in the performance of official duties.  
(Reference is to SB 293 as printed January 26, 2024.)