

PROPOSED AMENDMENT

SB 293 # 4

DIGEST

Trespass. Deletes the existing bill and provides that a person commits trespass if the person does not have a contractual interest in the property and 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, if the officer was dispatched to the property after a person with a contractual interest in the property requested the presence of a law enforcement officer at the property.

- 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:

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

1 facility (as defined in IC 35-31.5-2-287) without the permission
 2 of, or with permission which was fraudulently obtained from, the
 3 owner of the scientific research facility or an authorized person,
 4 and knowingly or intentionally engages in conduct that causes
 5 property damage to:

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

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

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

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

18 (A) a vacant property;

19 (B) an abandoned property;

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

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

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

29 **(12) not having a contractual interest in the property,**
 30 **knowingly or intentionally enters or refuses to leave the**
 31 **property of another person after having been prohibited from**
 32 **entering or asked to leave the property by a law enforcement**
 33 **officer who was dispatched to the property, if a person having**
 34 **a contractual interest in the property requested the presence**
 35 **of a law enforcement officer at the property;**

36 commits criminal trespass, a Class A misdemeanor. However, the
 37 offense is a Level 6 felony if it is committed on a scientific research
 38 facility, on a facility belonging to a public utility (as defined in
 39 IC 32-24-1-5.9(a)), on school property, or on a school bus or the person
 40 has a prior unrelated conviction for an offense under this section

1 concerning the same property. The offense is a Level 6 felony, for
 2 purposes of subdivision (8), if the property damage is more than seven
 3 hundred fifty dollars (\$750) and less than fifty thousand dollars
 4 (\$50,000). The offense is a Level 5 felony, for purposes of subdivisions
 5 (8) and (9), if the property damage is at least fifty thousand dollars
 6 (\$50,000).

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

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

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

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

20 (A) on a tree:

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

26 (B) on a post:

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

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

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

40 (f) A person described in subsection (b)(7) or (b)(10) violates

1 subsection (b)(7) or (b)(10), as applicable, unless the person has the
 2 written permission of the owner, the owner's agent, an enforcement
 3 authority, or a court to come onto the property for purposes of
 4 performing maintenance, repair, or demolition.

5 (g) A person described in subsection (b)(10) violates subsection
 6 (b)(10) unless the court that issued the order denying the person entry
 7 grants permission for the person to come onto the property.

8 (h) Subsections (b), (c), and (g) do not apply to the following:

9 (1) A passenger on a train.

10 (2) An employee of a railroad carrier while engaged in the
 11 performance of official duties.

12 (3) A law enforcement officer, firefighter, or emergency response
 13 personnel while engaged in the performance of official duties.

14 (4) A person going on railroad property in an emergency to rescue
 15 a person or animal from harm's way or to remove an object that
 16 the person reasonably believes poses an imminent threat to life or
 17 limb.

18 (5) A person on the station grounds or in the depot of a railroad
 19 carrier:

20 (A) as a passenger; or

21 (B) for the purpose of transacting lawful business.

22 (6) A:

23 (A) person; or

24 (B) person's:

25 (i) family member;

26 (ii) invitee;

27 (iii) employee;

28 (iv) agent; or

29 (v) independent contractor;

30 going on a railroad's right-of-way for the purpose of crossing at a
 31 private crossing site approved by the railroad carrier to obtain
 32 access to land that the person owns, leases, or operates.

33 (7) A person having written permission from the railroad carrier
 34 to go on specified railroad property.

35 (8) A representative of the Indiana department of transportation
 36 while engaged in the performance of official duties.

37 (9) A representative of the federal Railroad Administration while
 38 engaged in the performance of official duties.

39 (10) A representative of the National Transportation Safety Board
 40 while engaged in the performance of official duties.

(Reference is to SB 293 as printed January 26, 2024.)