



January 24, 2014

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## SENATE BILL No. 101

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DIGEST OF SB 101 (Updated January 21, 2014 1:43 pm - DI 106)

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

**Synopsis:** Agricultural operations and trespass. Adds causing property damage to an agricultural operation to the existing crime of institutional criminal mischief. Increases the sentence enhancement monetary thresholds for criminal mischief and institutional criminal mischief. Provides that a person commits criminal trespass if, without the owner's permission, the person enters: (1) that portion of an agricultural operation that is used for production; or (2) any part of the real property of an agricultural operation and causes property damage.

**Effective:** July 1, 2014.

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### Holdman, Steele, Young R

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January 7, 2014, read first time and referred to Committee on Corrections & Criminal Law.  
January 23, 2014, amended, reported favorably — Do Pass.

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SB 101—LS 6441/DI 107





January 24, 2014

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 BILL No. 101

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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 35-31.5-2-24.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2014]: **Sec. 24.5. "Authorized person", for**  
4 **purposes of IC 35-43-2-2, has the meaning set forth in**  
5 **IC 35-43-2-2(a).**
- 6 SECTION 2. IC 35-43-1-2, AS AMENDED BY P.L.158-2013,  
7 SECTION 453, IS AMENDED TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who recklessly,  
9 knowingly, or intentionally damages or defaces property of another  
10 person without the other person's consent commits criminal mischief,  
11 a Class B misdemeanor. However, the offense is:  
12 (1) a Class A misdemeanor if the pecuniary loss is at least ~~two~~  
13 ~~hundred fifty dollars (\$250)~~ **seven hundred fifty dollars (\$750)**  
14 ~~but less than two thousand five hundred dollars (\$2,500);~~ **fifty**  
15 **thousand dollars (\$50,000);** and  
16 (2) a Level 6 felony if:

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- 1 (A) the pecuniary loss is at least ~~two thousand five hundred~~  
 2 ~~dollars (\$2,500);~~ **fifty thousand dollars (\$50,000);**  
 3 (B) the damage causes a substantial interruption or impairment  
 4 of utility service rendered to the public;  
 5 (C) the damage is to a public record; or  
 6 (D) the damage is to a law enforcement animal (as defined in  
 7 IC 35-46-3-4.5).
- 8 (b) A person who recklessly, knowingly, or intentionally damages:  
 9 (1) a structure used for religious worship;  
 10 (2) a school or community center;  
 11 **(3) the property of an agricultural operation (as defined in**  
 12 **IC 32-30-6-1);**  
 13 ~~(3)~~ **(4)** the grounds:  
 14 (A) adjacent to; and  
 15 (B) owned or rented in common with;  
 16 a structure or facility identified in subdivision ~~(1) or (2);~~ **through**  
 17 **(3);** or  
 18 ~~(4)~~ **(5)** personal property contained in a structure or located at a  
 19 facility identified in subdivision (1) ~~or (2);~~ **through (3);**  
 20 without the consent of the owner, possessor, or occupant of the  
 21 property that is damaged, commits institutional criminal mischief, a  
 22 Class A misdemeanor. However, the offense is a Level 6 felony if the  
 23 pecuniary loss **(or property damage, in the case of an agricultural**  
 24 **operation)** is at least ~~two hundred fifty dollars (\$250)~~ **seven hundred**  
 25 **fifty dollars (\$750)** but less than ~~two thousand five hundred dollars~~  
 26 ~~(\$2,500);~~ **fifty thousand dollars (\$50,000)**, and a Level 5 felony if the  
 27 pecuniary loss **(or property damage, in the case of an agricultural**  
 28 **operation)** is at least ~~two thousand five hundred dollars (\$2,500).~~ **fifty**  
 29 **thousand dollars (\$50,000).**
- 30 (c) If a person is convicted of an offense under this section that  
 31 involves the use of graffiti, the court may, in addition to any other  
 32 penalty, order that the person's operator's license be suspended or  
 33 invalidated by the bureau of motor vehicles for not more than one (1)  
 34 year.
- 35 (d) The court may rescind an order for suspension or invalidation  
 36 under subsection (c) and allow the person to receive a license or permit  
 37 before the period of suspension or invalidation ends if the court  
 38 determines that the person has removed or painted over the graffiti or  
 39 has made other suitable restitution.
- 40 SECTION 3. IC 35-43-2-2, AS AMENDED BY P.L.203-2013,  
 41 SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION  
 42 462, IS CORRECTED AND AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) As used in this section,**  
 2 **"authorized person" means a person authorized by an agricultural**  
 3 **operation to act on behalf of the agricultural operation.**

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

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

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

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

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

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

20 **(A) property of an agricultural operation that is used for**  
 21 **the production, processing, propagation, packaging,**  
 22 **cultivation, harvesting, care, management, or storage of an**  
 23 **animal, plant, or other agricultural product, including any**  
 24 **pasturage or land used for timber management; or**

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

26 (6) knowingly or intentionally:

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

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

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

42 **(8) not having a contractual interest in the property,**



1 **knowingly or intentionally enters the real property of an**  
 2 **agricultural operation (as defined in IC 32-30-6-1) without the**  
 3 **permission of the owner of the agricultural operation or an**  
 4 **authorized person, and knowingly or intentionally engages in**  
 5 **conduct that causes property damage to:**

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

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

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

11 ~~(8)~~ **(9) 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 ~~(A)~~ has been**  
 16 **designated by a municipality or county enforcement authority to**  
 17 **be a vacant property, ~~or~~ an abandoned property, ~~and (B) is subject~~**  
 18 **to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8,**  
 19 **IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined**  
 20 **in IC 36-7-36-1);**

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

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

35 (1) personal communication, oral or written;

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

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

41 ~~(e)~~ **(d)** A law enforcement officer may not deny entry to property or  
 42 ask a person to leave a property under subsection ~~(a)(7)~~ **(b)(7)** unless



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

35 going on a railroad's right-of-way for the purpose of crossing at a  
 36 private crossing site approved by the railroad carrier to obtain  
 37 access to land that the person owns, leases, or operates.
  - 38 (7) A person having written permission from the railroad carrier  
 39 to go on specified railroad property.
  - 40 (8) A representative of the Indiana department of transportation  
 41 while engaged in the performance of official duties.
  - 42 (9) A representative of the federal Railroad Administration while



- 1 engaged in the performance of official duties.
- 2 (10) A representative of the National Transportation Safety Board
- 3 while engaged in the performance of official duties.





## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 101, 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, delete lines 6 through 16, begin a new paragraph and insert:

"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

(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);**

~~(4)~~ **(4)** the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision ~~(1)~~ ~~or (2)~~; **through (3)**; or

~~(4)~~ **(5)** personal property contained in a structure or located at a facility identified in subdivision (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."

Page 2, line 22, delete "real property or" and insert ":

**(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; or**  
**(B)".**

Page 3, line 3, delete "a pecuniary loss" and insert "**property damage**".

Page 3, line 8, after "operation;" insert "**or**".

Page 3, delete lines 9 through 15.

Page 3, line 16, delete "(10)" and insert "**(9)**".

Page 3, line 32, delete "subdivisions (8) through (9)," and insert "**subdivision (8)**".

Page 3, line 33, delete "pecuniary loss" and insert "**property damage**".

Page 3, line 35, delete "subdivisions (8) through (9)," and insert "**subdivision (8)**".

Page 3, line 36, delete "pecuniary loss" and insert "**property damage**".



Page 4, line 13, delete "(b)(10)" and insert "**(b)(9)**".

Page 4, line 14, delete "(b)(10)" and insert "**(b)(9)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 101 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 2.

