



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1485 be amended to read as follows:

- 1 Page 3, line 16, after "present" insert "**and assist**".
- 2 Page 7, after line 21, begin a new paragraph and insert:
- 3 "SECTION 12. IC 35-43-2-2, AS AMENDED BY P.L.276-2019,
- 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2021]: Sec. 2. (a) As used in this section, "authorized person"
- 6 means a person authorized by an agricultural operation to act on behalf
- 7 of the agricultural operation.
- 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,
 - 26 harvesting, care, management, or storage of an animal, plant,
 - 27 or other agricultural product, including any pasturage or land

- 1 used for timber management, without the consent of the owner
 2 of the agricultural operation or an authorized person; or
 3 (B) dwelling of another person without the person's consent;
 4 (6) knowingly or intentionally:
 5 (A) travels by train without lawful authority or the railroad
 6 carrier's consent; and
 7 (B) rides on the outside of a train or inside a passenger car,
 8 locomotive, or freight car, including a boxcar, flatbed, or
 9 container without lawful authority or the railroad carrier's
 10 consent;
 11 (7) not having a contractual interest in the property, knowingly or
 12 intentionally enters or refuses to leave the property of another
 13 person after having been prohibited from entering or asked to
 14 leave the property by a law enforcement officer when the property
 15 is:
 16 (A) vacant real property (as defined in IC 36-7-36-5) or a
 17 vacant structure (as defined in IC 36-7-36-6); or
 18 (B) designated by a municipality or county enforcement
 19 authority to be abandoned property or an abandoned structure
 20 (as defined in IC 36-7-36-1);
 21 (8) not having a contractual interest in the property, knowingly or
 22 intentionally enters the real property of an agricultural operation
 23 (as defined in IC 32-30-6-1) without the permission of the owner
 24 of the agricultural operation or an authorized person, and
 25 knowingly or intentionally engages in conduct that causes
 26 property damage to:
 27 (A) the owner of or a person having a contractual interest in
 28 the agricultural operation;
 29 (B) the operator of the agricultural operation; or
 30 (C) a person having personal property located on the property
 31 of the agricultural operation; ~~or~~
 32 (9) knowingly or intentionally enters the property of another
 33 person after being denied entry by a court order that has been
 34 issued to the person or issued to the general public by
 35 conspicuous posting on or around the premises in areas where a
 36 person can observe the order when the property has been
 37 designated by a municipality or county enforcement authority to
 38 be a vacant property, an abandoned property, or an abandoned
 39 structure (as defined in IC 36-7-36-1); **or**
 40 **(10) knowingly or intentionally enters or refuses to leave the**
 41 **polls (as defined in IC 3-5-2-39) or chute (as defined in**
 42 **IC 3-5-2-10) after having been prohibited from entering or**
 43 **asked to leave the polls or chute by a precinct election officer**
 44 **(as defined in IC 3-5-2-40.1) or a law enforcement officer**
 45 **acting on behalf of a precinct election officer;**
 46 commits criminal trespass, a Class A misdemeanor. However, the

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

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

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

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

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

23 (A) on a tree:

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

29 (B) on a post:

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

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

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

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

1 (g) A person described in subsection (b)(9) violates subsection
 2 (b)(9) unless the court that issued the order denying the person entry
 3 grants permission for the person to come onto the property.

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

5 (1) A passenger on a train.

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

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

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

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

16 (A) as a passenger; or

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

18 (6) A:

19 (A) person; or

20 (B) person's:

21 (i) family member;

22 (ii) invitee;

23 (iii) employee;

24 (iv) agent; or

25 (v) independent contractor;

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

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

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

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

35 (10) A representative of the National Transportation Safety Board
 36 while engaged in the performance of official duties."

(Reference is to EHB 1485 as printed March 16, 2021.)

Senator WALKER G