

HOUSE BILL No. 1212

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-2-2.

Synopsis: Use of purple marks to deny entry to property. Authorizes the use of purple marks to post real property against trespassers.

Effective: July 1, 2018.

Bartels

January 11, 2018, read first time and referred to Committee on Judiciary.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1212

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 35-43-2-2, AS AMENDED BY P.L.32-2016,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 2. (a) As used in this section, "authorized person"
4 means a person authorized by an agricultural operation to act on behalf
5 of the agricultural operation.
6 (b) A person who:
7 (1) not having a contractual interest in the property, knowingly or
8 intentionally enters the real property of another person after
9 having been denied entry by the other person or that person's
10 agent;
11 (2) not having a contractual interest in the property, knowingly or
12 intentionally refuses to leave the real property of another person
13 after having been asked to leave by the other person or that
14 person's agent;
15 (3) accompanies another person in a vehicle, with knowledge that
16 the other person knowingly or intentionally is exerting
17 unauthorized control over the vehicle;



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



1 conspicuous posting on or around the premises in areas where a
 2 person can observe the order when the property has been
 3 designated by a municipality or county enforcement authority to
 4 be a vacant property, an abandoned property, or an abandoned
 5 structure (as defined in IC 36-7-36-1);

6 commits criminal trespass, a Class A misdemeanor. However, the
 7 offense is a Level 6 felony if it is committed on a scientific research
 8 facility, on a key facility, on a facility belonging to a public utility (as
 9 defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or
 10 the person has a prior unrelated conviction for an offense under this
 11 section concerning the same property. The offense is a Level 6 felony,
 12 for purposes of subdivision (8), if the property damage is more than
 13 seven hundred fifty dollars (\$750) and less than fifty thousand dollars
 14 (\$50,000). The offense is a Level 5 felony, for purposes of subdivision
 15 (8), if the property damage is at least fifty thousand dollars (\$50,000).

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

- 18 (1) personal communication, oral or written;
 19 (2) posting or exhibiting a notice at the main entrance in a manner
 20 that is either prescribed by law or likely to come to the attention
 21 of the public; ~~or~~
 22 (3) a hearing authority or court order under IC 32-30-6,
 23 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; ~~or~~
 24 **(4) posting the property by placing identifying purple marks**
 25 **on trees or posts around the area where entry is denied. Each**
 26 **purple mark must be readily visible to any person**
 27 **approaching the property and must be placed:**

28 **(A) on a tree as a vertical line of at least eight (8) inches in**
 29 **length and with the bottom of the mark at least three (3)**
 30 **feet and not more than five (5) feet from the ground, and**
 31 **not more than one hundred (100) feet from the nearest**
 32 **marked tree; or**

33 **(B) on a post with the mark covering at least the top two**
 34 **(2) inches of the post, and with the bottom of the mark at**
 35 **least three (3) feet and not more than five (5) feet six (6)**
 36 **inches from the ground. Marked posts must be placed not**
 37 **more than thirty-six (36) feet apart.**

38 **Before applying a mark visible from both sides of a fence**
 39 **shared by different property owners or lessees, all owners or**
 40 **lessees must agree to post the properties under this**
 41 **subdivision.**

42 (d) A law enforcement officer may not deny entry to property or ask



1 a person to leave a property under subsection (b)(7) unless there is
2 reasonable suspicion that criminal activity has occurred or is occurring.

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

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

10 (g) Subsections (b), (c), and (f) 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.

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

