

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 373**

Citations Affected: IC 35-43.

Synopsis: Criminal trespass and application fraud. Conference committee report for ESB 373. Provides that a person who does not have a contractual interest in the property of another person, and who knowingly or intentionally enters the real property and commits an act on the real property with the intent to harm any business that operates on the real property commits criminal trespass. Provides that a person who knowingly or intentionally: (1) submits an application to a prospective employer to secure employment; and (2) makes a false statement about a material fact or conceals a material fact in the application in order to secure employment, commits application fraud, a Class A misdemeanor. Provides that a person making a false or misleading written statement with the intent to obtain employment is excluded from the deception statute. **(This conference committee report: (1) adds language providing that a person who does not have a contractual interest in the property of another person, and who knowingly or intentionally enters the real property and commits an act on the real property with the intent to harm any business that operates on the real property commits criminal trespass; (2) removes language that for the purposes of criminal trespass, a person has been denied entry to property when the person has been denied entry by means of a fence, wall, or other constructed barrier that reasonably implies entry is prohibited; and (3) makes a technical correction.)**

Effective: July 1, 2013.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 373 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 35-43-2-2, AS AMENDED BY P.L.88-2009,
- 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2013]: Sec. 2. (a) 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 dwelling of another person without the
- 20 person's consent;
- 21 (6) knowingly or intentionally:
- 22 (A) travels by train without lawful authority or the railroad

carrier's consent; and
 (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;
 (7) not having a contractual interest in the property, 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 when the property is:
 (A) vacant or designated by a municipality or county enforcement authority to be abandoned property; and
 (B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; ~~or~~
 (8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property:
 (A) has been designated by a municipality or county enforcement authority to be a vacant property or an abandoned property; and
 (B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; ~~or~~
(9) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person and commits an act, including taking surreptitious photographs or videos, on the real property with the intent to harm any business that operates on the real property;
 commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.
 (b) A person has been denied entry under ~~subdivision~~ **subsection** (a)(1) ~~of this section~~ when the person has been denied entry by means of:
 (1) personal communication, oral or written;
 (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or
 (3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.
 (c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.
 (d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

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

(f) Subsections (a), (b), and (e) do not apply to the following:

(1) A passenger on a train.

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

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

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

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

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

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

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

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

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

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

SECTION 2. IC 35-43-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A person who:

(1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;

(2) knowingly or intentionally makes a false or misleading written statement with intent to obtain property ~~employment~~, or an educational opportunity;

(3) misapplies entrusted property, property of a governmental entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the property or to a person for whose benefit the property was

entrusted;

(4) knowingly or intentionally, in the regular course of business, either:

(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or

(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;

(5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;

(6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;

(7) with intent to defraud an owner of a coin machine, deposits a slug in that machine;

(8) with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug;

(9) disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;

(10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5; or

(11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service;

commits deception, a Class A misdemeanor.

(b) In determining whether an advertisement is false, misleading, or deceptive under subsection (a)(9), there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

SECTION 3. IC 35-43-5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 21. A person who knowingly or intentionally:**

(1) submits an application to a prospective employer to secure employment with the prospective employer; and

(2) makes a false statement about a material fact or conceals a material fact in the application in order to secure employment with the prospective employer;

commits employment application fraud, a Class A misdemeanor.

(Reference is to ESB 373 as printed April 9, 2013.)

Conference Committee Report
on
Engrossed Senate Bill 373

Signed by:

Senator Holdman
Chairperson

Representative Friend

Senator Steele

Representative Steuerwald

Senate Conferees

House Conferees