

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 408

(By Senators Jenkins, Plymale and Beach)

[Originating in the Committee on the Judiciary;
reported February 10, 2012.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3-59, relating to crimes against property involving graffiti; defining offense and terms; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-3-59, to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-59. Graffiti.

1 (a) As used in this section, “graffiti” means any unautho-
2 rized inscription, word, figure or design that is marked,
3 etched, scratched, drawn, painted on or affixed to the public
4 or private property, real or personal, of another, which
5 defaces the property. As used in this section, “value of the
6 loss” is determined by the cost of repair, replacement or
7 restoration of the defaced property.

8 (b) A person who places graffiti on or otherwise defaces
9 the public or private property, real or personal, of another,
10 without the permission of the owner where the value of the
11 loss is less than \$1,000, is guilty of a misdemeanor and, upon
12 conviction thereof, for a first offense, shall be confined in jail
13 not less than twenty-four hours nor more than six months or
14 fined not more than \$1,000, or both. For a second offense, the
15 person is guilty of a misdemeanor and, upon conviction
16 thereof, shall be confined in jail not less than forty-eight
17 hours nor more than six months or fined not more than
18 \$2,000, or both. For third and subsequent offenses, the
19 person is guilty of a misdemeanor and, upon conviction
20 thereof, shall be confined in jail for not less than ninety days
21 nor more than one year or fined not more than \$10,000, or
22 both.

23 (c) A person who places graffiti on or otherwise defaces
24 the public or private property, real or personal, of another,
25 without the permission of the owner where the value of the
26 loss is greater than \$1,000, is guilty of a misdemeanor and,
27 upon conviction, shall be confined in jail for not less than
28 ninety days nor more than one year or fined not more than
29 \$10,000, or both.

30 (d) If a person commits more than one offense under this
31 section, pursuant to a common scheme or continuing course
32 of conduct, the value of all property damaged or destroyed by
33 that person in the commission of those offenses shall be
34 aggregated for the purpose of determining the penalty
35 prescribed in this section.