

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 488**

4 (By Senators Stollings, Kirkendoll, Green, D. Hall, Kessler (Mr.  
5 President), Unger and Williams)

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7 [Originating in the Committee on Energy, Industry and Mining;  
8 reported March 19, 2013.]  
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12 A BILL to amend and reenact §61-3-29 of the Code of West Virginia,  
13 1931, as amended, relating to prohibiting damage to property  
14 of railroads, public utilities and certain production and  
15 distribution facilities; adding waste management facilities,  
16 storage facilities and timber operations to the protected  
17 properties; prohibiting destruction, damage or removal of  
18 property resulting in impairment to the normal, safe operation  
19 of those facilities; and providing criminal penalties.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §61-3-29 of the Code of West Virginia, 1931, as amended,  
22 be amended and reenacted to read as follows:

23 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

24 **§61-3-29. Damage or destruction of railroad, or public utility**

1 company property, waste management facility, or real or personal  
2 property used for producing, generating, transmitting,  
3 distributing, treating, storing or collecting electricity, natural  
4 gas, coal, timber, water, wastewater, stormwater,  
5 telecommunications or cable service; penalties; restitution.

6 (a) Any person who knowingly and willfully damages or destroys  
7 any real or personal property owned by a railroad company, ~~or~~  
8 public utility company, or waste management facility, or any real  
9 or personal property used for producing, generating, transmitting,  
10 distributing, treating, storing, or collecting electricity, natural  
11 gas, coal, timber, water, wastewater, stormwater,  
12 telecommunications or cable service, is guilty of a misdemeanor  
13 and, upon conviction thereof, shall be fined not more than \$2,000,  
14 or confined in jail not more than one year, or both fined and  
15 confined.

16 (b) Any person who knowingly and willfully: (1) Damages or  
17 destroys any real or personal property owned by a railroad company,  
18 ~~or~~ public utility company, or waste management facility, or any  
19 real or personal property used for producing, generating,  
20 transmitting, distributing, treating, storing, or collecting  
21 electricity, natural gas, coal, timber, water, wastewater,  
22 stormwater, telecommunications or cable service; and (2) creates a  
23 substantial risk of serious bodily injury to another or results in  
24 the interruption of service to the public is guilty of a felony

1 and, upon conviction thereof, shall be fined not more than \$5,000,  
2 or confined in a state correctional facility not less than one nor  
3 more than three years, or both fined and imprisoned.

4 (c) Any person who knowingly and willfully: (1) Damages or  
5 destroys any real or personal property owned by a railroad company,  
6 ~~or~~ public utility company, or waste management facility, or any  
7 real or personal property used for producing, generating,  
8 transmitting, distributing, treating, storing, or collecting  
9 electricity, natural gas, coal, timber, water, wastewater,  
10 stormwater, telecommunications or cable service; and (2) causes  
11 serious bodily injury to another is guilty of a felony and, upon  
12 conviction thereof, shall be fined not less than \$5,000 nor more  
13 than \$50,000, or confined in a state correctional facility not less  
14 than one nor more than five years, or both fined and imprisoned.

15 (d) Any person who knowingly and willfully: (1) Damages or  
16 destroys, tampers with, or removes any real or personal property  
17 owned by a railroad company, public utility company, or waste  
18 management facility, or any real or personal property used for  
19 producing, generating, transmitting, distributing, treating,  
20 storing, or collecting electricity, natural gas, coal, timber,  
21 water, wastewater, stormwater, telecommunications or cable service;  
22 and (2) thereby hinders, impairs or disrupts, directly or  
23 indirectly, the normal operation of any equipment, device, system  
24 or service put in place, in whole or in part, to protect, promote

1 or facilitate the health or safety of any person, is guilty of a  
2 felony and, upon conviction thereof, shall be fined not less than  
3 \$1,000 nor more than \$10,000, or confined in a state correctional  
4 facility not less than one nor more than three years, or both fined  
5 and imprisoned.

6 ~~(d)~~(e) Nothing in this section may be construed to limit or  
7 restrict the ability of an entity referred to in subsection (a),  
8 (b), ~~or (c)~~ (c), or (d) of this section or a property owner or  
9 other person who has been damaged or injured as a result of a  
10 violation of this section from seeking recovery for damages arising  
11 from violation of this section.

NOTE: The purpose of this bill is to provide for protection against property crimes committed against coal mines, utilities and other industrial facilities. The bill adds waste management facilities and timber operations to the protected facilities and provides for criminal penalties for the removal, destruction, or damage of real or personal property that impairs the normal operation any equipment or system used for the protection of health and safety of any person.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.