

COMMITTEE SUBSTITUTE

FOR

# **Senate Bill No. 116**

(By Senators Jenkins and McCabe)

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[Originating in the Committee on the Judiciary;  
reported February 15, 2013.]

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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; allowing for aggregation of valuations for penalty purposes; 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  
2 unauthorized inscription, word, figure or design that is  
3 marked, etched, scratched, drawn, painted on or affixed to the  
4 public 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,  
15 the 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 person  
19 is guilty of a misdemeanor and, upon conviction thereof,

20 shall be confined in jail for not less than ninety days nor  
21 more than one year or fined not more than \$10,000 or both.

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