

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 488

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

[Originating in the Committee on the Judiciary;
reported March 26, 2013.]

A BILL to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting damage to property of railroads, public utilities and certain production storage and distribution facilities; adding waste management facilities, storage facilities and timber operations to the protected properties; prohibiting destruction, damage or removal of property resulting in impairment to the normal, safe operation of those facilities; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. CRIMES AGAINST PROPERTY.

**§61-3-29. Damage or destruction of railroad, public utility
company property, waste management facility or
real or personal property used for producing,
generating, transmitting, distributing, treating,
storing or collecting electricity, natural gas, oil,
coal, timber, water, wastewater, stormwater,
telecommunications or cable service; penalties;
restitution.**

1 (a) Any person who knowingly and willfully damages or
2 destroys any real or personal property owned by a railroad
3 company, ~~or~~ public utility company, waste management
4 facility or any real or personal property used for producing,
5 generating, transmitting, distributing, treating, storing or
6 collecting electricity, natural gas, oil, coal, timber, water,
7 wastewater, stormwater, telecommunications or cable service

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8 is guilty of a misdemeanor and, upon conviction thereof,
9 shall be fined not more than \$2,000, or confined in jail not
10 more than one year, or both fined and confined.

11 (b) Any person who knowingly and willfully: (1)
12 Damages or destroys any real or personal property owned by
13 a railroad company, ~~or~~ public utility company, waste
14 management facility or any real or personal property used for
15 producing, generating, transmitting, distributing, treating,
16 storing or collecting electricity, natural gas, oil, coal, timber,
17 water, wastewater, stormwater, telecommunications or cable
18 service; and (2) creates a substantial risk of serious bodily
19 injury to another or results in the interruption of service to
20 the public is guilty of a felony and, upon conviction thereof,
21 shall be fined not more than \$5,000, or confined in a state
22 correctional facility not less than one nor more than three
23 years, or both fined and imprisoned.

24 (c) Any person who knowingly and willfully: (1)
25 Damages or destroys any real or personal property owned by

26 a railroad company, ~~or~~ public utility company, waste
27 management facility or any real or personal property used for
28 producing, generating, transmitting, distributing, treating,
29 storing or collecting electricity, natural gas, oil, coal, timber,
30 water, wastewater, stormwater, telecommunications or cable
31 service; and (2) causes serious bodily injury to another is
32 guilty of a felony and, upon conviction thereof, shall be fined
33 not less than \$5,000 nor more than \$50,000, or confined in a
34 state correctional facility not less than one nor more than five
35 years, or both fined and imprisoned.

36 (d) Any person who knowingly and willfully: (1)
37 Damages or destroys, tampers with or removes any real or
38 personal property owned by a railroad company, public
39 utility company, waste management facility or any real or
40 personal property used for producing, generating,
41 transmitting, distributing, treating, storing or collecting
42 electricity, natural gas, oil, coal, timber, water, wastewater,
43 stormwater, telecommunications or cable service; and (2)
44 thereby hinders, impairs or disrupts, directly or indirectly, the

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45 normal operation of any equipment, device, system or service
46 put in place, in whole or in part, to protect, promote or
47 facilitate the health or safety of any person is guilty of a
48 felony and, upon conviction thereof, shall be fined not less
49 than \$1,000 nor more than \$10,000, or confined in a state
50 correctional facility not less than one nor more than three
51 years, or both fined and imprisoned.

52 ~~(d)~~ (e) Nothing in this section may be construed to limit
53 or restrict the ability of an entity referred to in subsection (a),
54 (b), ~~or~~ (c) or (d) of this section or a property owner or other
55 person who has been damaged or injured as a result of a
56 violation of this section from seeking recovery for damages
57 arising 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.)