

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

ENROLLED

H. B. 2627

(By Delegates McCuskey, R. Phillips, R. Smith, J. Nelson, Stansbury,
McGeehan, Eldridge, Arvon, H. White, Marcum and Butler)

[Passed March 14; in effect ninety days from passage.]

**FISCAL
NOTE**

AN ACT 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 parties; prohibiting destruction, damage or removal of property resulting in impairment to the normal, safe operation of those facilities; providing criminal penalties; and clarifying persons convicted of section are subject to restitution.

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 or public utility company property, or real or personal property used for producing, generating, transmitting, distributing, treating or collecting electricity, natural gas, coal, water, wastewater, stormwater, telecommunications or cable service; penalties; restitution.

1 (a) Any person who knowingly and willfully damages or destroys any commercial or
2 industrial real or personal property owned by a railroad company, public utility company, solid waste
3 facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this
4 code or any real or personal property used for producing, generating, transmitting, distributing,
5 treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water,
6 wastewater, stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon
7 conviction thereof, shall be fined not more than \$2,000, or confined in jail not more than one year,
8 or both.

9 (b) Any person who knowingly and willfully damages or destroys any commercial or
10 industrial real or personal property owned by a railroad company, public utility company, solid waste
11 facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this
12 code or any real or personal property used for producing, generating, transmitting, distributing,
13 treating, storing, or collecting electricity, natural gas, oil, coal, timber, timber processing, water,
14 wastewater, stormwater, telecommunications or cable service; and thereby creates a substantial risk
15 of serious bodily injury to another or results in the interruption of service to the public is guilty of
16 a felony and, upon conviction thereof, shall be fined not more than \$5,000, or confined in a state
17 correctional facility not less than one nor more than three years, or both.

18 (c) Any person who knowingly and willfully damages or destroys any commercial or
19 industrial real or personal property owned by a railroad company, public utility company, solid waste
20 facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this
21 code, or any real or personal property used for producing, generating, transmitting, distributing,

1 treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water,
2 wastewater, stormwater, telecommunications or cable service; and (2) causes serious bodily injury
3 to another is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor
4 more than \$50,000, or confined in a state correctional facility not less than one nor more than five
5 years, or both.

6 (d) Any person who knowingly and willfully damages or destroys any commercial or
7 industrial real or personal property owned by a railroad company, public utility company, solid waste
8 facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this
9 code or any real or personal property used for producing, generating, transmitting, distributing,
10 treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water,
11 wastewater, stormwater, telecommunications or cable service; and thereby hinders, impairs or
12 disrupts, directly or indirectly the normal operation of any equipment, device, system or service put
13 in place, in whole or in part, to protect, promote or facilitate the health or safety of any person is
14 guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
15 \$10,000.

16 (e) Any person convicted of subsection (a), (b), (c) or (d) of this section shall be subject to
17 the provisions of article eleven-a of this chapter.

18 (f) Nothing in this section limits or restricts the ability of an entity referred to in subsection
19 (a), (b), (c) or (d) of this section or a property owner or other person who has been damaged or
20 injured as a result of a violation of this section from seeking recovery for damages arising from
21 violation of this section.