

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 283

BY SENATOR FERNS, *original sponsor*

[Passed March 12, 2016; in effect 90 days from passage]

1 AN ACT to amend and reenact §60A-4-411 of the Code of West Virginia, 1931, as amended,
2 relating to creating a crime of causing the burning of a dwelling, outbuilding, building or
3 other structure while operating or attempting to operate a clandestine drug laboratory;
4 establishing criminal penalties; clarifying the offense as a separate and distinct offense
5 from operation or attempted operation of a clandestine drug laboratory; making clear that
6 the operation or attempted operation of a clandestine drug lab is not a lesser included
7 offense; providing that the offenses are qualifying felony offenses of manufacturing and
8 delivery of a controlled substance for purposes of first degree murder; and providing for
9 payment of all reasonable costs, if any, associated with remediation of the site of the
10 clandestine drug laboratory upon conviction.

Be it enacted by the Legislature of West Virginia:

1 That §60A-4-411 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

**§60A-4-411. Operating or attempting to operate clandestine drug laboratories; offenses;
penalties.**

1 (a) Any person who operates or attempts to operate a clandestine drug laboratory is guilty
2 of a felony and, upon conviction, shall be confined in a state correctional facility for not less than
3 two years nor more than ten years or fined not less than \$5,000 nor more than \$25,000, or both.

4 (b) Any person who operates or attempts to operate a clandestine drug laboratory and
5 who as a result of, or in the course of doing so, causes to be burned any dwelling, outbuilding,
6 building or structure of any class or character is guilty of a felony and, upon conviction thereof,
7 shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned in a state correctional
8 facility for not less than one nor more than five years, or both fined and imprisoned.

9 (c) For purposes of this section, a “clandestine drug laboratory” means any property, real
10 or personal, on or in which a person assembles any chemicals or equipment or combination

11 thereof for the purpose of manufacturing methamphetamine, methylenedioxymethamphetamine
12 or lysergic acid diethylamide in violation of the provisions of section four hundred one of this
13 article.

14 (d) The offenses in subsections (a) and (b) of this section are separate and distinct
15 offenses and subsection (a) of this section shall not be construed to be a lesser included offense
16 of subsection (b) of this section.

17 (e) For purposes of section one, article two of this chapter, both subsection (a) and (b) of
18 this section shall be deemed qualifying felony offenses of manufacturing and delivery of a
19 controlled substance.

20 (f) Any person convicted of a violation of subsection (a) or (b) of this section shall be
21 responsible for all reasonable costs, if any, associated with remediation of the site of the
22 clandestine drug laboratory.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2016.

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Governor