

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **Senate Bill 368**

**FISCAL  
NOTE**

BY SENATOR CARMICHAEL

[Introduced January 21, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
 2 sections, designated §61-6-26 and §61-6-27, all relating to making it a criminal offense to  
 3 disturb the peace; and providing criminal penalties.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto two  
 2 new sections, designated §61-6-26 and §61-6-27, all to read as follows:

**ARTICLE 6. CRIMES AGAINST THE PEACE.**

**§61-6-26. Disturbing the peace.**

1 (a) It is unlawful for any person to disturb the peace, quiet and comfort of any  
 2 neighborhood by creating any disturbing or unreasonably loud noise.

3 (b) It is the intent of this section to prohibit all noises that are disturbing or unreasonably  
 4 loud. The types of noises set out in subsection (c) of this section may not be construed as in any  
 5 way exclusive, but merely illustrative.

6 (c) The following types of noises are declared to be disturbing the peace, quiet and comfort  
 7 of the neighborhood in which they are heard pursuant to this section:

8 (1) Operating any vehicle at such a speed on a curve or turn, or accelerating or  
 9 decelerating such vehicle in such a manner as to create loud and unnecessary noise through the  
 10 squealing of tires upon the pavement, or to cause damage to the roadway;

11 (2) The sounding of any horn, signal or noise device on any motor vehicle, motorcycle,  
 12 bus, truck or other vehicle, in any other manner or for any other purpose than allowed by the Code  
 13 of West Virginia;

14 (3) The noise from an exhaust system of any vehicle that is not equipped or constructed  
 15 so as to prevent any disturbing or unreasonably loud noise;

16 (4) The revving of the engine of any motor vehicle while such vehicle is not in motion,  
 17 except when done in the course of repairing, adjusting, or testing it during reasonable hours;

18 (5) Keeping, harboring or having custody of any dog which barks, howls, or makes noises

19 by day or night which disturbs the peace and quiet of any person or family within the  
20 neighborhood;

21 (6) For any person who sells food and drink, at or adjacent to any conveyance, to ring  
22 bells, play chimes or an amplified musical system or to make other noise in any residential area  
23 for advertising purposes between the hours of 8:00 p.m. and 9:00 a.m., and no such noise may  
24 be made when the vehicle is parked.

25 (A) For the purposes of this section, an “amplified musical system” is defined as a  
26 mechanical or electrical instrument, or music producing device, equipped with an electrical  
27 amplified or loudspeaker.

28 (B) No bells, chimes, or amplified musical system, as defined in paragraph (A), shall make  
29 noise or music that disturbs the peace or quiet of any neighborhood or which causes discomfort  
30 or annoyance to any reasonable person of normal sensitiveness residing or working in the area.

31 (7) Disturbing or unreasonably loud shouting or crying of peddlers, hawkers, vendors or  
32 newspaper carriers;

33 (8) The playing or operating of any radio, orchestra, or other musical device or instrument  
34 in a manner that is disturbing or unreasonably loud to a reasonable person outside the facility or  
35 unit from which the noise emanates;

36 (9) Disturbing or unreasonably loud shouting, screaming, wailing or other vocalization that  
37 is disturbing or unreasonably loud to a reasonable person outside the facility or unit from which  
38 the noise emanates;

39 (10) With malicious and willful intent, disturbing the dignity or reverential nature of any  
40 funeral, memorial service, funeral procession, burial ceremony or view of a deceased person.

41 (d) Nothing herein prohibits noises produced by emergency vehicles, operations or  
42 procedures of any kind or at any time, or prohibits noise produced in the normal conduct of  
43 business or commerce, including construction, provided that such noise production occurs within  
44 the normal and customary hours for the conduct of such business or commerce and the operation

45 is being legally conducted within the scope of all ordinances and laws of the applicable  
46 municipality, county, or the state.

47 (e) Any person who violates any provision of this section, is guilty of a misdemeanor and,  
48 upon conviction thereof, shall be fined up to \$1,000 per occurrence, confined in jail not more than  
49 six months, or both fined and confined.

**§61-6-27. Disruptive Parties.**

1 (a) Prohibition of parties that disturb the peace.-- No person may knowingly congregate  
2 because of, or participate in, any party or gathering of two or more people from which noise  
3 emanates of sufficient volume or of such nature to reasonably disturb the peace, quiet, or repose  
4 of other persons.

5 (b) Authority to disperse noisy party.-- A law-enforcement official may order all persons  
6 present other than the owners or tenants of the building or place to immediately disperse. It is  
7 unlawful for any person to refuse to leave after being ordered to do so by a law-enforcement  
8 officer.

9 (c) Owner or other tenant responsibility in abatement of disturbance.-- It is unlawful for  
10 any owner or tenant of the building or place who has the knowledge of the disturbance to fail or  
11 refuse to immediately abate the disturbance.

12 (d) Any person who violates any provision of this section, is guilty of a misdemeanor and,  
13 upon conviction thereof, shall be fined up to \$1,000 per occurrence, confined in jail not more than  
14 six months, or both fined and confined.

NOTE: The purpose of this bill is to make it a criminal offense to disturb the peace, and provides for criminal penalties for said offense.

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