

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 567

BY SENATORS BOSO, ASHLEY, BLAIR, GAUNCH,
KIRKENDOLL, MAYNARD, MILLER, MULLINS, ROMANO,
WILLIAMS, STOLLINGS, PLYMALE AND FERNS, *original*
sponsors

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

1 AN ACT to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating
2 to property crimes committed against property owned by a railroad company or public
3 utility company, or other certain real or personal property; adding oil, timber and timber
4 operations to the list of entities protected under this statute; clarifying that the applicable
5 property covered under this statute be commercial or industrial real or personal property
6 of a railroad company or public utility company; adding storage to the list of uses of certain
7 property covered under this statute; creating a felony offense for knowingly and willfully
8 damaging or destroying any commercial or industrial real or personal property owned by
9 a railroad company, or public utility company, or any real or personal property used for
10 producing, generating, transmitting, distributing, treating, storing or collecting electricity,
11 natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,
12 telecommunications or cable service and thereby hindering, impairing or disrupting,
13 directly or indirectly, the normal operation of any equipment, device, system or service put
14 in place, in whole or in part, to protect, promote or facilitate the health or safety of any
15 person; providing criminal penalties; and providing that a railroad company, public utility,
16 business, or owner of property that is damaged, destroyed or disrupted may be deemed
17 a victim and entitled to restitution, should the court so order, from any person convicted of
18 an offense under this section, pursuant to the Victim Protection Act of 1984.

Be it enacted by the Legislature of West Virginia:

1 That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and
2 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, or public utility company, or any
3 real or personal property used for producing, generating, transmitting, distributing, treating storing
4 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
5 stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction
6 thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both
7 fined and confined.

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

16 (c) Any person who knowingly and willfully damages or destroys any commercial or
17 industrial real or personal property owned by a railroad company, or public utility company, or any
18 real or personal property used for producing, generating, transmitting, distributing, treating, storing
19 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
20 stormwater, telecommunications or cable service and thereby causes serious bodily injury to
21 another is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor
22 more than \$50,000, or imprisoned in a state correctional facility not less than one nor more than
23 five years, or both fined and imprisoned.

24 (d) Any person who knowingly and willfully damages or destroys any commercial or
25 industrial real or personal property owned by a railroad company, or public utility company, or any
26 real or personal property used for producing, generating, transmitting, distributing, treating, storing

27 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
28 stormwater, telecommunications or cable service and thereby hinders, impairs or disrupts, directly
29 or indirectly, the normal operation of any equipment, device, system or service put in place, in
30 whole or in part, to protect, promote or facilitate the health or safety of any person is guilty of a
31 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000,
32 or imprisoned in a state correctional facility for not less than one nor more than five years, or both
33 fined and imprisoned.

34 (e) For purposes of restitution under article eleven-a of this article, a railroad company,
35 public utility, business, or owner of property that is damaged, destroyed or disrupted may be
36 deemed a victim and entitled to restitution, should the court so order, from any person convicted
37 of an offense under this section.

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