

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2535

**FISCAL
NOTE**

BY DELEGATES KELLY, CRISS, WARD, COOPER, ROWAN,

ROMINE, R., HARSHBARGER AND HOLLEN

[Introduced February 17, 2017; 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; providing examples of disturbing the peace; defining a term; and
 4 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 shall be 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 shall 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 automobile, motorcycle, bus,
 12 truck or other vehicle, in any other manner or for any other purpose than allowed by the Code of
 13 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 within the State of West Virginia any dog which
19 barks, howls, or makes noises by day or night which disturbs the peace and quiet of any person
20 or family within the neighborhood;

21 (6) For any person or business that sells food and drink, at or adjacent to any conveyance,
22 to use an amplified musical system or make other noise in any residential area of the State of
23 West Virginia between the hours of eight p.m. and nine a.m.

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

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

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

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

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

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

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

44 is being legally conducted within the scope of all ordinances and laws of the applicable
45 municipality, county, or the State of West Virginia.

46 (e) Any person who violates any provision of this section, is guilty of a misdemeanor and,
47 upon conviction, shall be fined up to \$1,000 per occurrence, confined up to six months in jail, or
48 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, shall be fined up to \$1,000 per occurrence, confined in jail up to six months, or
14 both fined and confined.

NOTE: The purpose of this bill is to make it a criminal offense to disturb the peace. The bill provides examples. The bill provides for criminal penalties. The bill defines a term.

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