

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Engrossed

Committee Substitute

for

Committee Substitute

for

Senate Bill 490

SENATORS SYPOLT, SMITH, RUCKER, BEACH, BALDWIN,

JEFFRIES, AND PITSENBARGER, *original sponsors*

[Originating in the Committee on the Judiciary;

reported on February 7, 2020]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-3B-7, relating to criminal offenses against agricultural facilities; defining
3 terms; describing prohibited acts; establishing criminal penalties; authorizing double
4 damages for damage caused to agricultural facilities and equipment in the course of willful
5 trespass; and allowing injunctive relief.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3B. TRESPASS.

§61-3B-7. Animal or crop facilities trespass; penalties; injunctive relief.

1 (a) As used in this section:

2 (1) "Animal" means poultry, livestock, domestic animals, and captive cervids owned and
3 possessed by persons licensed pursuant to §19-2H-1 et seq. of this code. The term does not
4 include an animal used for illegal gaming.

5 (2) "Animal or crop facility" means a facility that is used in the production, management,
6 sale, or processing of animals or crops. The term includes, but is not limited to:

7 (A) A building, greenhouse, structure, laboratory, pasture, field, paddock, pond,
8 impoundment, or premises where animals or crops are located;

9 (B) A managed bee colony;

10 (C) A livestock market;

11 (D) A facility used for the preparation of, or processing of, animals, crops, or value-added
12 foods for sale; and

13 (E) A facility used to carry out any agritourism activity, as that term is defined and used in
14 §19-36-1 et seq. of this code.

15 (3) "Crop" means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of
16 producing food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

17 (b) Any person who willfully trespasses on the property of another which constitutes an
18 animal or crop facility with the intent to commit larceny, destroy property, or disrupt the operation
19 of the facility is guilty of willful trespass upon an animal or crop facility.

20 (c) Any person who conspires with one or more persons to violate subsection (b) of this
21 section and commits an overt act in furtherance thereof is guilty of conspiracy to willfully trespass
22 upon an animal or crop facility.

23 (d) Any person who violates subsection (b) of this section is guilty of a misdemeanor and,
24 upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail
25 not more than 30 days, or both fined and confined.

26 (e) Notwithstanding the provisions of subsection (d) of this section, any person convicted
27 of a second or subsequent violation of subsection (b) or a violation of subsection (c) of this section
28 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
29 \$10,000 or imprisoned in a state correctional facility for not less than one nor more than five years,
30 or both fined and imprisoned.

31 (f) Notwithstanding and in addition to any other penalties provided by law, any person who
32 performs, or causes damage to property in the course of, a willful trespass in violation of this
33 section is liable to the owner or operator of the animal or crop facility in the amount of twice any
34 damage caused.

35 (g) The owner or operator of an animal or crop facility may bring an action for injunctive
36 relief against a person who engages in, or threatens to engage in, conduct that constitutes a
37 violation of this section:

38 (1) The action may be brought in the circuit court of any county in which any part of the
39 conduct or threatened conduct occurs or is threatened to occur.

40 (2) The circuit court may grant any appropriate injunctive relief to prevent or abate the
41 conduct or threatened conduct, including a temporary restraining order, preliminary injunction, or
42 permanent injunction.

- 43 (3) The circuit court may issue injunctive relief without the owner or operator of an animal
44 or crop facility giving security for its issuance.