

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Enrolled**

### **Senate Bill 164**

By Senators Hunt and Deeds

[Passed March 9, 2024; in effect 90 days from  
passage]



16 7-1 of this code, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less  
17 than \$100 nor more than \$1,000, or be confined in jail for not more than one year, or both fined and  
18 confined.

**§61-3B-3. Trespass on property other than structure or conveyance.**

1 (a) It is an unlawful trespass for any person to knowingly, and without being authorized,  
2 licensed, or invited, to enter or remain on any property, other than a structure or conveyance, as to  
3 which notice against entering or remaining is either given by actual communication to such person  
4 or by posting, fencing, or cultivation.

5 (b) *First offense conviction.* — Upon a first trespassing conviction pursuant to subsection  
6 (a) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$100 nor  
7 more than \$500.

8 (c) *Second offense conviction.* — Upon a second trespassing conviction pursuant to  
9 subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined not less  
10 than \$500 nor more than \$1,000.

11 (d) *Third offense conviction.* — Upon a third and subsequent trespassing conviction  
12 pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined  
13 not less than \$1,000 nor more than \$1,500.

14 (e) If the offender defies an order to leave, personally communicated to him or her by the  
15 owner, tenant, or agent of the owner or tenant, or if the offender opens any door, fence, or gate,  
16 and thereby exposes animals, crops, or other property to waste, destruction, or freedom, or  
17 causes any damage to property by such trespassing on property other than a structure or  
18 conveyance, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not  
19 less than \$100 nor more than \$500, confined in jail for not more than six months, or both fined and  
20 confined.

21 (f) If the offender is armed with a firearm or other dangerous weapon with the unlawful and  
22 felonious intent to do bodily injury to a human being during his or her commission of the offense of

23 trespass on property other than a structure or conveyance, the offender, notwithstanding §61-7-1  
24 of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not  
25 more than six months, fined not less than \$100 nor more than \$1,000, or both confined and fined.

26 (g) Nothing in this section shall be construed to prevent lawful assembly and petition for the  
27 lawful redress of grievances, during any dispute, including, but not limited to, activities protected  
28 by the West Virginia Constitution, or the United States Constitution, or any statute of this state or  
29 the United States.

**§61-3B-6. Mine trespass; penalties.**

1 (a) A person who willfully enters an underground coal mine, whether active workings,  
2 inactive workings, or abandoned workings, without permission, is guilty of a felony and, upon  
3 conviction thereof, shall be imprisoned in a correctional facility not less than one year and nor  
4 more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000: *Provided*, That  
5 for any conviction pursuant to this subsection, any inactive or abandoned underground workings  
6 must be either: (1) Sealed; or (2) clearly identified by signage at some conspicuous place near the  
7 entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony  
8 criminal offense.

9 (b) A person who willfully enters a surface coal mine, whether active workings, inactive  
10 workings, or abandoned workings, without permission, and with the intent to commit a felony or  
11 any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not  
12 less than one week and not more than one month and shall be fined not less than \$1,000 nor more  
13 than \$5,000. For a second conviction, pursuant to this subsection, the person shall be guilty of a  
14 felony and shall be imprisoned in a correctional facility not less than one year and not more than  
15 five years and shall be fined not less than \$5,000 nor more than \$10,000. For a third or subsequent  
16 conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be  
17 imprisoned in a correctional facility not less than five years and not more than 10 years and shall  
18 be fined not less than \$10,000 nor more than \$25,000.

19 (c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts  
20 for that person there occurs an injury that causes substantial physical pain, illness, or any  
21 impairment of physical condition to any person other than himself or herself, then that person is  
22 guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one  
23 week and not more than one year and shall be fined not less than \$1,000 nor more than \$5,000:  
24 *Provided*, That the jail term shall include actual confinement of not less than seven days.

25 (d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts  
26 for that person there occurs an injury that creates a substantial risk of death, causes serious or  
27 prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the  
28 function of any bodily organ to any person other than himself or herself, then that person is guilty of  
29 a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than  
30 two nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000.

31 (e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts  
32 of such person, the death of any other person occurs, then that person is guilty of a felony and,  
33 upon conviction thereof, shall be imprisoned in a correctional facility for not less than three nor  
34 more than 15 years and shall be fined not less than \$10,000 nor more than \$25,000.

35 (f) The terms "mine", "active workings", "inactive workings", and "abandoned workings"  
36 have the same meaning ascribed to them as set forth in §22A-1-2 of this code.

37 (g) Nothing in this section shall be construed to prevent lawful assembly and petition for  
38 the lawful redress of grievances, during any dispute, including, but not limited to, activities  
39 protected by the West Virginia Constitution, or the United States Constitution, or any statute of this  
40 state or the United States.

**§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 of  
19 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) The owner or operator of an animal or crop facility may bring an injunctive  
32 relief against a person who engages in, or threatens to engage in, conduct that constitutes a  
33 violation of this section:

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

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

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

**§61-3B-8. Liability for damages; deferred judgment; dismissal.**

1 (a) As applicable to this article, notwithstanding and in addition to any other penalties  
2 provided by law, any person who performs or causes damage to property in the course of a willful  
3 trespass shall be liable to the property owner in the amount of twice the amount of such damage,  
4 including the cost of cleanup.

5 (b) Notwithstanding any provision of this code to the contrary, a court presiding over a  
6 misdemeanor violation of this article may defer entry of the judgment of conviction for a period not  
7 to exceed six months and if the damages authorized by subsection (a) of this section are paid  
8 within that time period, dismiss the charge.