

H. B. 2190

(By Delegate Rodighiero)

[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto two 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.

(a) It shall be unlawful for any person to disturb the peace,
quite and comfort of any neighborhood by creating any disturbing or
unreasonably loud noise.

(b) It is the intent of this section to prohibit all noises

1 that are disturbing or unreasonably loud. The types of noises set
2 out in subsection (c) of this section shall not be construed as in
3 any way exclusive, but merely illustrative.

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

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

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

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

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

21 (5) Keeping, harboring or having custody within the State of
22 West Virginia any dog which barks, howls, or makes noises by day or
23 night which disturbs the peace and quiet of any person or family
24 within the neighborhood;

1 (6) For any person who sells food and drink, at or adjacent to
2 any conveyance, to ring bells, play chimes or an amplified musical
3 system or to make other noise in any residential area of the State
4 of West Virginia for advertising purposes between the hours of
5 eight p.m. and nine a.m., and no such noise shall be made when the
6 vehicle is parked.

7 (A) For the purposes of this section, an "amplified musical
8 system" is defined as a mechanical or electrical instrument, or
9 music producing device, equipped with an electrical amplified or
10 loudspeaker.

11 (B) No bells, chimes, or amplified musical system, as defined
12 shall make noise or music that disturbs the peace or quiet of any
13 neighborhood or which causes discomfort or annoyance to any
14 reasonable person of normal sensitiveness residing or working in
15 the area.

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

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

22 (9) Disturbing or unreasonably loud shouting, screaming,
23 wailing or other vocalization that is disturbing or unreasonably
24 loud to a reasonable person outside the facility or unit from which

1 the noise emanates;

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

5 (d) Nothing herein prohibits noises produced by emergency
6 vehicles, operations or procedures of any kind or at any time, or
7 prohibits noise produced in the normal conduct of business or
8 commerce, including construction, provided that such noise
9 production occurs within the normal and customary hours for the
10 conduct of such business or commerce and the operation is being
11 legally conducted within the scope of all ordinances and laws of
12 the applicable municipality, county, or the State of West Virginia.

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

17 **§61-6-27. Disruptive Parties.**

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

23 (b) Authority to disperse noisy party.-- A law-enforcement
24 official may order all persons present other than the owners or

1 tenants of the building or place to immediately disperse. It is
2 unlawful for any person to refuse to leave after being ordered to
3 do so by a law-enforcement officer.

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

8 (d) Any person who violates any provision of this section, is
9 guilty of a misdemeanor and, upon conviction thereof, shall be
10 fined up to \$1,000 per occurrence, confined in jail up to six
11 months, or both fined and confined.

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

These sections is new; therefore, it has been completely underscored.