

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 408**

4 (By Senators Jenkins, Plymale and Beach)

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6 [Originating in the Committee on the Judiciary;

7 reported February 10, 2012.]

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11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §61-3-59, relating to
13 crimes against property involving graffiti; defining offense
14 and terms; and establishing penalties.

15 *Be it enacted by the Legislature of West Virginia:*

16 That the Code of West Virginia, 1931, as amended, be amended
17 by adding thereto a new section, designated §61-3-59, to read as
18 follows:

19 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

20 **§61-3-59. Graffiti.**

21 (a) As used in this section, "graffiti" means any unauthorized
22 inscription, word, figure or design that is marked, etched,
23 scratched, drawn, painted on or affixed to the public or private
24 property, real or personal, of another, which defaces the property.

25 As used in this section, "value of the loss" is determined by the

1 cost of repair, replacement or restoration of the defaced property.

2 (b) A person who places graffiti on or otherwise defaces the
3 public or private property, real or personal, of another, without
4 the permission of the owner where the value of the loss is less
5 than \$1,000, is guilty of a misdemeanor and, upon conviction
6 thereof, for a first offense, shall be confined in jail not less
7 than twenty-four hours nor more than six months or fined not more
8 than \$1,000, or both. For a second offense, the person is guilty
9 of a misdemeanor and, upon conviction thereof, shall be confined in
10 jail not less than forty-eight hours nor more than six months or
11 fined not more than \$2,000, or both. For third and subsequent
12 offenses, the person is guilty of a misdemeanor and, upon
13 conviction thereof, shall be confined in jail for not less than
14 ninety days nor more than one year or fined not more than \$10,000,
15 or both.

16 (c) A person who places graffiti on or otherwise defaces the
17 public or private property, real or personal, of another, without
18 the permission of the owner where the value of the loss is greater
19 than \$1,000, is guilty of a misdemeanor and, upon conviction, shall
20 be confined in jail for not less than ninety days nor more than one
21 year or fined not more than \$10,000, or both.

22 (d) If a person commits more than one offense under this
23 section, pursuant to a common scheme or continuing course of
24 conduct, the value of all property damaged or destroyed by that
25 person in the commission of those offenses shall be aggregated for
26 the purpose of determining the penalty prescribed in this section.