

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 116**

4 (By Senators Jenkins and McCabe)

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported February 15, 2013.]

8  
9  
10

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; allowing for aggregation of valuations for penalty  
15 purposes; and establishing penalties.

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

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

20 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

21 **§61-3-59. Graffiti.**

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

1 As used in this section, "value of the loss" is determined by the  
2 cost of repair, replacement or restoration of the defaced property.

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

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

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

1 the purpose of determining the penalty prescribed in this section.