1	H. B. 4226
2	
3 4 5 6	(By Delegates Hunt, Marcum, White, R. Phillips, Tomblin, Eldridge, Barker, Pino, Ferro, McCuskey and Ireland)
7	[Introduced January 17, 2014; referred to the
8	Committee on the Judiciary then Finance.]
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10	A BILL to amend and reenact $\$61-3-29$ of the Code of West Virginia,
11	1931, as amended, relating to prohibiting damage to property
12	of railroads, public utilities and certain production storage
13	and distribution facilities; adding waste management
14	facilities, storage facilities and timber operations to the
15	protected properties; prohibiting destruction, damage or
16	removal of property resulting in impairment to the normal,
17	safe operation of those facilities; and providing criminal
18	penalties.
19	Be it enacted by the Legislature of West Virginia:
20	That §61-3-29 of the Code of West Virginia, 1931, as amended,
21	be amended and reenacted to read as follows:
22	ARTICLE 3. CRIMES AGAINST PROPERTY.
23	§61-3-29. Damage or destruction of railroad, public utility
24	company property, waste management facility or real
25	or personal property used for producing, generating,

- transmitting, distributing, treating, storing or
  collecting electricity, natural gas, oil, coal,
  timber, water, wastewater, stormwater,
  telecommunications or cable service; penalties;
  restitution.
- (a) Any person who knowingly and willfully damages or destroys
  7 any real or personal property owned by a railroad company, or
  8 public utility company, waste management facility or any real or
  9 personal property used for producing, generating, transmitting,
  10 distributing, treating, storing or collecting electricity, natural
  11 gas, oil, coal, timber, water, wastewater, stormwater,
  12 telecommunications or cable service is guilty of a misdemeanor and,
  13 upon conviction thereof, shall be fined not more than \$2,000, or
  14 confined in jail not more than one year, or both fined and
  15 confined.
- (b) Any person who knowingly and willfully: (1) Damages or destroys any real or personal property owned by a railroad company, 18 or public utility company, waste management facility or any real or 19 personal property used for producing, generating, transmitting, 20 distributing, treating, storing or collecting electricity, natural 21 gas, oil, coal, timber, water, wastewater, stormwater, 22 telecommunications or cable service; and (2) creates a substantial 23 risk of serious bodily injury to another or results in the

- 1 interruption of service to the public is guilty of a felony and,
- 2 upon conviction thereof, shall be fined not more than \$5,000, or
- 3 confined in a state correctional facility not less than one nor
- 4 more than three years, or both fined and imprisoned.
- 5 (c) Any person who knowingly and willfully: (1) Damages or
- 6 destroys any real or personal property owned by a railroad company,
- 7 or public utility company, waste management facility or any real or
- 8 personal property used for producing, generating, transmitting,
- 9 distributing, treating, storing or collecting electricity, natural
- 10 gas, oil, coal, timber, water, wastewater, stormwater,
- 11 telecommunications or cable service; and (2) causes serious bodily
- 12 injury to another is guilty of a felony and, upon conviction
- 13 thereof, shall be fined not less than \$5,000 nor more than \$50,000,
- 14 or confined in a state correctional facility not less than one nor
- 15 more than five years, or both fined and imprisoned.
- 16 (d) Any person who knowingly and willfully: (1) Damages or
- 17 destroys, tampers with or removes any real or personal property
- 18 owned by a railroad company, public utility company, waste
- 19 management facility or any real or personal property used for
- 20 producing, generating, transmitting, distributing, treating,
- 21 storing or collecting electricity, natural gas, oil, coal, timber,
- 22 water, wastewater, stormwater, telecommunications or cable service;
- 23 and (2) thereby hinders, impairs or disrupts, directly or
- 24 indirectly, the normal operation of any equipment, device, system

- 1 or service put in place, in whole or in part, to protect, promote
- 2 or facilitate the health or safety of any person is guilty of a
- 3 felony and, upon conviction thereof, shall be fined not less than
- 4 \$1,000 nor more than \$10,000, or confined in a state correctional
- 5 <u>facility not less than one nor more than three years</u>, or both fined
- 6 and imprisoned.
- 7 (d) (e) Nothing in this section may be construed to limit or
- 8 restrict the ability of an entity referred to in subsection (a),
- 9 (b), or (c) or (d) of this section or a property owner or other
- 10 person who has been damaged or injured as a result of a violation
- 11 of this section from seeking recovery for damages arising from
- 12 violation of this section.

NOTE: The purpose of this bill is to provide for protection against property crimes committed against coal mines, utilities and other industrial facilities. The bill adds waste management facilities and timber operations to the protected facilities and provides for criminal penalties for the removal, destruction, or damage of real or personal property that impairs the normal operation any equipment or system used for the protection of health and safety of any person.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.