

H. B. 2251

(By Delegate Rodighiero)

[Introduced January 23, 2015; referred to the
Committee on the Judiciary.]

**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 examples of disturbing the peace; defining a term; and 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 is 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 that are disturbing or unreasonably loud. The types of noises set out in subsection (c) of this section shall not be construed as in any way

1 exclusive, but merely illustrative.

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

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

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

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

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

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

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

21 (A) For the purposes of this section, an “amplified musical system” is defined as a
22 mechanical or electrical instrument, or music producing device, equipped with an electrical amplified

1 or loudspeaker.

2 (B) No bells, chimes, or amplified musical system, as defined may make noise or music that
3 disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any
4 reasonable person of normal sensitiveness residing or working in the area.

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

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

10 (9) Disturbing or unreasonably loud shouting, screaming, wailing or other vocalization that
11 is disturbing or unreasonably loud to a reasonable person outside the facility or unit from which the
12 noise emanates;

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

15 (d) Nothing herein prohibits noises produced by emergency vehicles, operations or
16 procedures of any kind or at any time, or prohibits noise produced in the normal conduct of business
17 or commerce, including construction. However, that noise production must occur within the normal
18 and customary hours for the conduct of such business or commerce and the operation is being legally
19 conducted within the scope of all ordinances and laws of the applicable municipality, county, or the
20 State of West Virginia.

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

1 both fined and confined.

2 **§61-6-27. Disruptive Parties.**

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

7 (b) Authority to disperse noisy party.-- A law-enforcement official may order all persons
8 present other than the owners or tenants of the building or place to immediately disperse. It is
9 unlawful for any person to refuse to leave after being ordered to do so by a law-enforcement officer.

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

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

NOTE: The purpose of this bill is to making it a criminal offense to disturb the peace. The bill provides examples. The bill provides for criminal penalties. The bill defines a term.

These sections are new; therefore, they have been completely underscored.