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**Senate Bill No. 490**

(By Senators Mullins, Gaunch, D. Hall, M. Hall, Kessler, Kirkendoll, Leonhardt, Prezioso,  
Stollings, Williams and Plymale)

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[Introduced February 13, 2015; referred to the Committee on Natural Resources; and then to the  
Committee on the Judiciary.]

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A BILL to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating  
to prohibiting damage to property of railroads, public utilities and certain production storage  
and distribution facilities; adding waste management facilities, storage facilities and timber  
operations to protected parties; prohibiting destruction, damage or removal of property  
resulting in impairment to normal, safe operation of those facilities; and providing criminal  
penalties.

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

That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
to read as follows:

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-29. Damage or destruction of railroad or public utility company property, or real or  
personal property used for producing, generating, transmitting, distributing,**

1           **treating or collecting electricity, natural gas, coal, water, wastewater,**  
2           **stormwater, telecommunications or cable service; penalties; restitution.**

3           (a) Any person who knowingly and willfully damages or destroys any real or personal  
4 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection  
5 equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or  
6 personal property used for producing, generating, transmitting, distributing, treating, storing or  
7 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,  
8 telecommunications or cable service, is guilty of a misdemeanor and, upon conviction thereof, shall  
9 be fined not more than \$2,000, or confined in jail not more than one year, or both fined and confined.

10          (b) Any person who knowingly and willfully: (1) Damages or destroys any real or personal  
11 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection  
12 equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or  
13 personal property used for producing, generating, transmitting, distributing, treating, storing, or  
14 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,  
15 telecommunications or cable service; and (2) creates a substantial risk of serious bodily injury to  
16 another or results in the interruption of service to the public is guilty of a felony and, upon conviction  
17 thereof, shall be fined not more than \$5,000, or confined in a state correctional facility not less than  
18 one nor more than three years, or both fined and imprisoned.

19          (c) Any person who knowingly and willfully: (1) Damages or destroys any real or personal  
20 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection  
21 equipment as defined in section two, article fifteen, chapter twenty-two of this code, or any real or

1 personal property used for producing, generating, transmitting, distributing, treating, storing or  
2 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,  
3 telecommunications or cable service; and (2) causes serious bodily injury to another is guilty of a  
4 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$50,000, or  
5 confined in a state correctional facility not less than one nor more than five years, or both fined and  
6 imprisoned.

7 (d) Any person who knowingly and willfully: (1) Damages or destroys, tampers with or  
8 removes any real or personal property owned by a railroad company, public utility company, solid  
9 waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two  
10 of this code or any real or personal property used for producing, generating, transmitting,  
11 distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing,  
12 water, wastewater, stormwater, telecommunications or cable service; and (2) thereby hinders, impairs  
13 or disrupts, directly or indirectly the normal operation of any equipment, device, system or service  
14 put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person  
15 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than  
16 \$10,000, plus the value of full replacement or repair of the property, or confined in a state  
17 correctional facility not less than one nor more than three years, or both fined and imprisoned.

18 ~~(d)~~ (e) Nothing in this section ~~may be construed to limit or restrict~~ limits or restricts the  
19 ability of an entity referred to in subsection (a), (b), ~~or~~ (c) or (d) of this section or a property owner  
20 or other person who has been damaged or injured as a result of a violation of this section from  
21 seeking recovery for damages arising from violation of this section.

NOTE: The purpose of this bill is to provide 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.