

H. B. 2627

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[Introduced February 5, 2015; referred to
the Committee on Energy; and then to the
Committee on the Judiciary.]

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 the protected parties; prohibiting destruction, damage or removal of property resulting in impairment to the 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, treating or collecting electricity, natural gas, coal, water, wastewater, stormwater, telecommunications or cable service; penalties; restitution.

1 (a) Any person who knowingly and willfully damages or
2 destroys any real or personal property owned by a railroad
3 company, ~~or~~ public utility company, solid waste facility or
4 collection equipment as defined in section two, article fifteen,
5 chapter twenty-two of this code or any real or personal property
6 used for producing, generating, transmitting, distributing,
7 treating, storing or collecting electricity, natural gas, oil, coal,
8 timber, timber processing, water, wastewater, stormwater,
9 telecommunications or cable service, is guilty of a misdemeanor
10 and, upon conviction thereof, shall be fined not more than
11 \$2,000, or confined in jail not more than one year, or both fined
12 and confined.

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

27 (c) Any person who knowingly and willfully: (1) Damages
28 or destroys any real or personal property owned by a railroad
29 company, ~~or~~ public utility company, solid waste facility or
30 collection equipment as defined in section two, article fifteen,
31 chapter twenty-two of this code, or any real or personal property
32 used for producing, generating, transmitting, distributing,

33 treating, storing or collecting electricity, natural gas, oil, coal,
34 timber, timber processing, water, wastewater, stormwater,
35 telecommunications or cable service; and (2) causes serious
36 bodily injury to another is guilty of a felony and, upon
37 conviction thereof, shall be fined not less than \$5,000 nor more
38 than \$50,000, or confined in a state correctional facility not less
39 than one nor more than five years, or both fined and imprisoned.

40 (d) Any person who knowingly and willfully: (1) Damages
41 or destroys, tampers with or removes any real or personal
42 property owned by a railroad company, public utility company,
43 solid waste facility or collection equipment as defined in section
44 two, article fifteen, chapter twenty-two of this code or any real
45 or personal property used for producing, generating,
46 transmitting, distributing, treating, storing or collecting
47 electricity, natural gas, oil, coal, timber, timber processing,
48 water, wastewater, stormwater, telecommunications or cable
49 service; and (2) thereby hinders, impairs or disrupts, directly or
50 indirectly the normal operation of any equipment, device, system
51 or service put in place, in whole or in part, to protect, promote or
52 facilitate the health or safety of any person is guilty of a felony

53 and, upon conviction thereof, shall be fined not less than \$5,000
54 nor more than \$10,000, plus the value of full replacement or
55 repair of the property, or confined in a state correctional facility
56 not less than one nor more than three years, or both fined and
57 imprisoned.

58 ~~(d)~~ (e) Nothing in this section ~~may be construed to limit or~~
59 ~~restrict~~ limits or restricts the ability of an entity referred to in
60 subsection (a), (b), ~~or~~ (c) or (d) of this section or a property
61 owner or other person who has been damaged or injured as a
62 result of a violation of this section from seeking recovery for
63 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.

