

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 567

BY SENATORS BOSO, ASHLEY, BLAIR, GAUNCH,
KIRKENDOLL, MAYNARD, MILLER, MULLINS, ROMANO,
WILLIAMS, STOLLINGS, PLYMALE AND FERNS

[Originating in the Committee on the Judiciary;

reported on February 28, 2016]

1 A BILL to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting damage to property of railroads, public utilities and certain production
3 storage and distribution facilities; adding electrical storage facilities and timber operations
4 to the protected entities; prohibiting destruction and creating criminal offense of knowingly
5 and willfully damaging property resulting in impairment to the normal, safe operation of
6 safety-related equipment; providing criminal penalties; and clarifying persons convicted of
7 offenses are subject to restitution.

Be it enacted by the Legislature of West Virginia:

1 That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and
2 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 destroys any commercial or
2 industrial real or personal property owned by a railroad company, or public utility company, or any
3 real or personal property used for producing, generating, transmitting, distributing, treating storing
4 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
5 stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction
6 thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both
7 fined and confined.

8 (b) Any person who knowingly and willfully: ~~(1) Damages~~ damages or destroys any
9 commercial or industrial real or personal property owned by a railroad company, or public utility
10 company, or any real or personal property used for producing, generating, transmitting,

11 distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber
12 processing, water, wastewater, stormwater, telecommunications or cable service and ~~(2)~~ thereby
13 creates a substantial risk of serious bodily injury to another or results in the interruption of service
14 to the public is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000,
15 or ~~confined~~ imprisoned in a state correctional facility not less than one nor more than three years,
16 or both fined and imprisoned.

17 (c) Any person who knowingly and willfully: ~~(1) Damages~~ damages or destroys any
18 commercial or industrial real or personal property owned by a railroad company, or public utility
19 company, or any real or personal property used for producing, generating, transmitting,
20 distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber
21 processing, water, wastewater, stormwater, telecommunications or cable service and ~~(2)~~ thereby
22 causes serious bodily injury to another is guilty of a felony and, upon conviction thereof, shall be
23 fined not less than \$5,000 nor more than \$50,000, or ~~confined~~ imprisoned in a state correctional
24 facility not less than one nor more than five years, or both fined and imprisoned.

25 (d) Any person who knowingly and willfully damages or destroys any commercial or
26 industrial real or personal property owned by a railroad company, or public utility company, or any
27 real or personal property used for producing, generating, transmitting, distributing, treating, storing
28 or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater,
29 stormwater, telecommunications or cable service and thereby hinders, impairs or disrupts, directly
30 or indirectly, the normal operation of any equipment, device, system or service put in place, in
31 whole or in part, to protect, promote or facilitate the health or safety of any person is guilty of a
32 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000,
33 or imprisoned in a state correctional facility for not less than one nor more than five years, or both
34 fined and imprisoned.

35 (e) Any person convicted of subsection (a), (b), (c) or (d) of this section is subject to the
36 provisions of article eleven-a of this chapter.

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