

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 323

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,

ROMANO AND WILLIAMS

[Passed March 8, 2016; in effect 90 days from passage]

1 AN ACT to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating
2 to correcting subsection designations in the statute regarding trespass on property;
3 relettering certain subsections to avoid duplication of subsection designations; and making
4 other stylistic and technical changes.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3B. TRESPASS.

§61-3B-3. Trespass on property other than structure or conveyance.

1 (a) It is an unlawful trespass for any person to knowingly, and without being authorized,
2 licensed or invited, to enter or remain on any property, other than a structure or conveyance, as
3 to which notice against entering or remaining is either given by actual communication to such
4 person or by posting, fencing or cultivation.

5 (b) First offense conviction. — Upon a first trespassing conviction pursuant to subsection
6 (a) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$100 nor
7 more than \$500.

8 (c) Second offense conviction. — Upon a second trespassing conviction pursuant to
9 subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined not less
10 than \$500 nor more than \$1,000.

11 (d) Third offense conviction. — Upon a third and subsequent trespassing conviction
12 pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined
13 not less than \$1,000 nor more than \$1,500.

14 (e) If the offender defies an order to leave, personally communicated to him or her by the
15 owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate,
16 and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes
17 any damage to property by such trespassing on property other than a structure or conveyance,

18 he or she is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor
19 more than \$500, confined in jail for not more than six months, or both fined and confined.

20 (f) If the offender is armed with a firearm or other dangerous weapon with the unlawful
21 and felonious intent to do bodily injury to a human being during his or her commission of the
22 offense of trespass on property other than a structure or conveyance, such offender,
23 notwithstanding section one, article seven, chapter sixty-one of this code, is guilty of a
24 misdemeanor and, upon conviction, shall be confined in jail for not more than six months, fined
25 not more than \$100, or both confined and fined.

26 (g) Notwithstanding and in addition to any other penalties provided by law, any person
27 who performs or causes damage to property in the course of a willful trespass shall be liable to
28 the property owner in the amount of twice the amount of such damage. However, this article shall
29 not apply in a labor dispute.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2016.

.....
Governor