

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2675

BY DELEGATE FOSTER, STEELE, HIGGINBOTHAM, WILSON,
JENNINGS, AZINGER, KELLY, D., MANDT, LINVILLE,
WAXMAN AND MARTIN, P.

[Introduced January 25, 2019; Referred
to the Committee on Industry and Labor then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §21-17-1, relating to the recovery of damages for exceeding the scope of
 3 authorized access to an employer's property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. EMPLOYER PROPERTY PROTECTION ACT.

§21-17-1. Civil remedies for exceeding the scope of authorized access to an employer's property.

1 (a) Any employee who intentionally gains access to the nonpublic areas of an employer's
 2 premises and engages in an act that exceeds the employee's authority to enter those areas is
 3 liable to the employer for any damages sustained. For the purposes of this section "nonpublic
 4 areas" shall mean those areas and spaces for which an employee is not authorized to access.

5 (b) For the purposes of this section, an act that exceeds an employee's authority to enter
 6 the nonpublic areas of an employer's premises includes any of the following:

7 (1) An employee who enters the nonpublic areas of an employer's premises for a reason
 8 other than a bona fide intent of performing authorized work and thereafter without authorization
 9 captures or removes the employer's data, paper, records, or any other documents and uses the
 10 information to breach the person's duty of loyalty to the employer.

11 (2) An employee who intentionally enters the nonpublic areas of an employer's premises
 12 for a reason other than a bona fide intent of performing authorized work and thereafter without
 13 authorization records images or sound occurring within an employer's premises and uses the
 14 recording to breach the person's duty of loyalty to the employer.

15 (3) Knowingly or intentionally placing on the employer's premises an unattended camera
 16 or electronic surveillance device and using that device to record images or data.

17 (c) Any person who intentionally directs, assists, compensates or induces another person
 18 to violate this section shall be jointly liable.

19 (d) A court may award to a party who prevails in an action brought pursuant to this section

20 one or more of the following remedies:

21 (1) Equitable relief.

22 (2) Compensatory damages as otherwise allowed by state or federal law.

23 (3) Costs and fees, including reasonable attorneys' fees.

24 (e) Exemplary damages as otherwise allowed by state or federal law in the amount of

25 \$5,000 for each day, or portion thereof, that a defendant has acted in violation or subsection (a)

26 of this section.

27 (f) This section shall not apply to a governmental agency or law-enforcement officer

28 engaged in a lawful investigation of the premises or the owner or operator of the premises.

29 (g) Nothing in this section shall be construed to limit any other remedy available at

30 common law, including in action in detinue, or provided by the Code of West Virginia.

NOTE: The purpose of this bill is to provide a private right of action for employers against any employee who misappropriates the employer's property.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.