

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### House Bill 4184

BY DELEGATES FOSTER, WAXMAN, JENNINGS, BUTLER,  
CADLE, BIBBY, HARDY, PORTERFIELD, KESSINGER, FAST  
AND J. KELLY

[Introduced January 14, 2020; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §61-3B-2 and §61-3b-3 of the Code of West Virginia, 1931, as  
2 amended, all relating to criminal trespass.

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

**ARTICLE 3B. TRESPASS.**

**§61-3B-2. Trespass in structure or conveyance.**

1 Any person who knowingly enters in, upon or under a structure or conveyance without  
2 being authorized, licensed or invited, or having been authorized, licensed or invited is requested  
3 to depart by the owner, tenant or the agent of such owner or tenant, and refuses to do so, shall  
4 be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

5 If the offender is armed with a firearm or other dangerous weapon while in the structure  
6 or conveyance, with the unlawful and felonious intent to do bodily injury to a human being in said  
7 structure or conveyance at the time the offender knowingly trespasses, such offender shall,  
8 notwithstanding the provisions of §61-7-1 of this code, be guilty of a misdemeanor and, upon  
9 conviction thereof, shall be fined not less than \$100 ~~nor more than \$500~~ or be confined in the  
10 ~~county~~ jail for a period not to exceed 12 months, or both ~~such fine~~ fined and ~~imprisonment~~  
11 confined.

**§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 and  
21 felonious intent to do bodily injury to a human being during his or her commission of the offense  
22 of trespass on property other than a structure or conveyance, such offender, notwithstanding §61-  
23 7-1 of this code, is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not  
24 more than six months, fined not ~~more~~ less than \$100, or both confined and fined.

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

29 (h) Nothing in this section shall be construed to prevent lawful assembly and petition for  
30 the redress of grievances, during any dispute, including, but not limited to, activities protected by  
31 the West Virginia Constitution or the United States Constitution or any statute of this state or the  
32 United States.

NOTE: The purpose of this bill is to provide for increased fines for criminal trespass.

Strike-throughs indicate language that would be stricken from a heading or the present law

and underscoring indicates new language that would be added.