

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4668**

BY DELEGATES MILEY, LOVEJOY, EVANS, CAPUTO,

WAXMAN, ROHRBACH, WORRELL AND PUSHKIN

[Introduced February 04, 2020; Referred to the

Committee on the Judiciary.]



1 A BILL to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating  
2 to creating the misdemeanor crime of trespass for entering a structure that has been  
3 clearly marked as condemned by a municipality as unfit for human habitation; providing  
4 criminal penalty; providing that for a first offense, a municipal judge or magistrate may  
5 substitute community correction or pretrial diversion before imposing a penalty.

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

**ARTICLE 3B. TRESPASS.**

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

1 (a) 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 (b) Any person who, without permission, knowingly and willfully enters a structure which  
6 has a clear posting that the structure has been condemned by any municipal or county  
7 government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction  
8 thereof, shall be fined not more than \$100 or confined in jail not more than 6 months, or both fined  
9 and confined: *Provided*, That for any first offense of trespass on condemned property, a municipal  
10 judge or magistrate may substitute community correction and/or pretrial diversion alternatives  
11 available in §62-11C-1, *et seq.* of this code before imposing any fine or confinement for  
12 trespassing on condemned property.

13 ~~(b)~~(c) If the offender is armed with a firearm or other dangerous weapon while in the  
14 structure or conveyance, with the unlawful and felonious intent to do bodily injury to a human  
15 being in said structure or conveyance at the time the offender knowingly trespasses, such  
16 offender shall, notwithstanding the provisions of §61-7-1 of this code, be guilty of a misdemeanor,  
17 and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, or be confined

18 in ~~the county jail for a period not to exceed~~ up to 1 year, or both ~~such fine~~ and imprisonment  
19 confined.

NOTE: The purpose of this bill is to create the crime for trespass of a condemned structure.

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