

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 490**

SENATORS SYPOLT, SMITH, RUCKER, BEACH, BALDWIN,

JEFFRIES, AND PITSENBARGER, *original sponsors*

[Originating in the Committee on Agriculture and

Rural Development; reported on January 23, 2020]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §61-3B-7, relating to animal and crop facilities trespass; providing definitions;  
3 describing prohibited acts; listing criminal penalties; establishing liability in double the  
4 amount of damages caused; and allowing injunctive relief and listing the terms thereof.

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

**ARTICLE 3B. TRESPASS.**

**§61-3B-7. Animal and crop facilities trespass; penalties; injunctive Relief.**

1 (a) As used in this section:

2 (1) "Animal" means poultry, livestock, domestic animals, and captive cervids owned and  
3 possessed by persons licensed pursuant to §19-2H-1 et seq. of this code. The term does not  
4 include an animal used for illegal gaming.

5 (2) "Animal or crop facility" means a facility that is used in the agricultural production of  
6 animals or crops. The term includes, but is not limited to:

7 (A) A tractor, trailer, farm implement of husbandry, building, greenhouse, structure,  
8 laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are  
9 located;

10 (B) A managed bee colony;

11 (C) A livestock market;

12 (D) A facility used for the preparation of or processing of animals, crops, or value-added  
13 foods for sale; and

14 (E) A facility used to carry out any agritourism activity, as that term is defined and used in  
15 §19-36-1 et seq. of this code.

16 (3) "Crop" means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of  
17 producing food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

18 (b) A person violates this section if he or she:

19 (1) Intentionally releases, steals, or destroys an animal or crop from an animal or crop

20 facility without the consent of the owner or operator of the animal or crop facility;

21 (2) Willfully damages, vandalizes, or steals any property on or from an animal or crop  
22 facility;

23 (3) Breaks and enters into an animal or crop facility with the intent to destroy or alter  
24 records, data, materials, equipment, animals, or crops;

25 (4) Knowingly obtains control over, by theft or deception, any materials, software,  
26 equipment, electronic data, animals, or crops of an animal or crop facility for the purpose of  
27 depriving the owner or operator of the facility, or the facility, of those materials, software,  
28 equipment, electronic data, animals, or crops;

29 (5) Enters or remains on an animal or crop facility with the intent to commit an act that  
30 violates this section; or

31 (6) Causes or assists in causing any of the above to occur, either remotely or indirectly.

32 (c) A person who violates this section is guilty of a misdemeanor and, upon conviction  
33 thereof, shall be confined in jail not less than one week and not more than one month, and shall  
34 be fined not less than \$1,000 nor more than \$5,000. For a second conviction pursuant to this  
35 section, the person is guilty of a felony and shall be imprisoned in a correctional facility not less  
36 than one year and not more than five years, and shall be fined not less than \$5,000 nor more than  
37 \$10,000. For a third or subsequent conviction pursuant to this section, the person is guilty of a  
38 felony and shall be imprisoned in a correctional facility not less than five years and not more than  
39 10 years, and shall be fined not less than \$10,000 nor more than \$25,000.

40 (d) Notwithstanding and in addition to any other penalties provided by law, any person  
41 who performs, or causes damage to property in the course of, a willful trespass in violation of this  
42 section is liable to the owner or operator of the animal or crop facility in the amount of twice any  
43 damage caused.

44 (e) The owner or operator of an animal or crop facility may bring an action for injunctive  
45 relief against a person who engages in, or threatens to engage in, conduct that constitutes a

46 violation of this section:

47 (1) Such action may be brought in the circuit court of any county in which any part of the  
48 conduct or threatened conduct occurs or is threatened to occur.

49 (2) The circuit court may grant any appropriate injunctive relief to prevent or abate the  
50 conduct or threatened conduct, including temporary restraining order, preliminary injunction, or  
51 permanent injunction.

52 (3) The circuit court may issue injunctive relief without the owner or operator of an animal  
53 or crop facility giving security for its issuance.

NOTE: The purpose of this bill is to protect animal and crop facilities from damage and destructive acts. The bill provides definitions and establishes that acts that damage, destroy, or deprive the owner or operator of an animal or crop facility of animals, crops, equipment, or records are prohibited and constitute a criminal offense. The bill provides for criminal penalties and allows the owner or operator of an animal or crop facility to obtain injunctive relief. The bill also makes a person who commits an offense liable for twice the amount of the damages the person causes.

This bill is recommended by the Committee on Agriculture and Rural Development for introduction and passage during the 2020 Regular Session.

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