

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Committee Substitute

for

Senate Bill 490

SENATORS SYPOLT, SMITH, RUCKER, BEACH, BALDWIN,

JEFFRIES, AND PITSENBARGER, *original sponsors*

[Originating in the Committee on the Judiciary;

reported on February 7, 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 criminal offenses against agricultural facilities; defining
3 terms; describing prohibited acts; establishing criminal penalties; authorizing double
4 damages for damage caused to agricultural facilities and equipment in the course of willful
5 trespass; and allowing injunctive relief.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3B. TRESPASS.

§61-3B-7. Agricultural 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) "Agricultural facility and equipment" means a facility or equipment that is used in the
6 production of 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 may not:

19 (1) Intentionally release, steal, or destroy an animal or crop from an agricultural facility
20 without the consent of the owner or operator of the agricultural facility;

21 (2) Willfully damage, vandalize, or steal any property on or from an agricultural facility;

22 (3) Break and enter into an agricultural facility with the intent to destroy or alter records,
23 data, materials, equipment, animals, or crops;

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

28 (5) Enter or remain on an agricultural facility with the intent to commit an act that violates
29 this section; or

30 (6) Cause or aid and abet a violation of this subsection.

31 (c) Any person who violates subsection (b) of this section is guilty of a misdemeanor and,
32 upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail
33 not more than 30 days, or both fined and confined.

34 (d) Notwithstanding the provisions of subsection (c) of this subsection, a person convicted
35 of a second violation of subsection (b) of this section is guilty of a misdemeanor and, upon
36 conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in jail not
37 more than one year, or both fined and confined.

38 (e) Notwithstanding the provisions of subsections (c) and (d) of this subsection, any person
39 convicted of a third or subsequent violation of subsection (b) of this section is guilty of a felony
40 and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000 or
41 imprisoned in a state correctional facility for not less than one nor more than five years, or both
42 fined and imprisoned.

43 (f) Notwithstanding and in addition to any other penalties provided by law, any person who
44 performs, or causes damage to property in the course of, a willful trespass in violation of this

45 section is liable to the owner or operator of the animal or crop facility in the amount of twice any
46 damage caused.

47 (g) The owner or operator of an animal or crop facility may bring an action for injunctive
48 relief against a person who engages in, or threatens to engage in, conduct that constitutes a
49 violation of this section:

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

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

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