

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 490

INTERIM
BILL

BY SENATORS SYPOLT, SMITH, RUCKER, BEACH,

BALDWIN, JEFFRIES, AND PITSENBARGER

[Introduced January 15, 2020; referred

to the Committee on Agriculture and Rural

Development; and then to the Committee on the

Judiciary]

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 the protection of animal and crop facilities; providing
 3 definitions; describing prohibited acts; listing criminal penalties; establishing liability in
 4 double the amount of damages caused; and allowing injunctive relief and listing the terms
 5 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 “Animal” means poultry, livestock, and other domestic and wild animals. The term does
 3 not include an animal used for illegal gaming.

4 “Animal or crop facility” means a facility that is used in the agricultural production of
 5 animals or crops. The term includes, but is not limited to:

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

9 (B) A managed bee colony;

10 (C) A livestock market;

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

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

15 “Crop” means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of producing
 16 food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

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

18 (1) Intentionally releases, steals, destroys, or otherwise causes the loss of an animal or

19 crop from an animal or crop facility without the consent of the owner or operator of the animal or
20 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 by theft or deception or exerts unauthorized control over any
26 materials, equipment, animals, or crops of an animal or crop facility for the purpose of depriving
27 the owner or operator of the facility or the facility of materials, equipment, animals, or crops;

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

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

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

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

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

45 of this section:

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

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

51 (3) The circuit court may issue injunctive relief without the owner or operator of an animal
52 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.