

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3158

FISCAL
NOTE

By Delegates Ferrell, Jeffries, Phillips, Honaker,
Fehrenbacher, Barnhart, Storch, Rohrbach, Heckert,

Foggin, and Worrell

[Introduced January 30, 2023; Referred 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 §61-6-26, relating to unlawful panhandling and solicitation; exempting fire
 3 departments; and providing misdemeanor penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-26. Unlawful panhandling and solicitation; fraudulent solicitation prohibited.

1 (a) For purposes of this section, "panhandling" means any solicitation made in person
 2 whether by sign, gesture, or verbally requesting:

3 (1) An immediate donation of money, funds, goods, or food;

4 (2) Personal favors, including but not limited to, trips, transportation, clothing, gasoline,
 5 lodging, vehicle fare, drugs, or alcoholic beverages; or

6 (3) Any other purpose to directly benefit an individual panhandling or his family or
 7 associates;

8 (4) The purchase of an item for an amount far exceeding its value, under circumstances
 9 where a reasonable person would understand that the purchase is, in substance, considered a
 10 donation.

11 (b) Legal panhandling is permitted:

12 (1) Any individual person participating in the act of legal panhandling or solicitation shall
 13 obtain a state license or county permit from the county sheriff at a cost of \$100 per 30 days.
 14 Payment can be paid with a single payment of \$25 up front and the remaining \$75 paid before 30
 15 days expires.

16 (A) Failure to make payment of the full amount due shall result in the suspension of a
 17 permit.

18 (B) Any individual panhandling must:

19 (i) Present a copy of a valid I.D. to obtain permit; and

20 (ii) Keep both I.D. and permit at site of solicitation.

- 21 (c) No person may panhandle in the following locations:
- 22 (1) At a bus stop or train stop;
- 23 (2) In a public transportation vehicle or facility;
- 24 (3) In a vehicle on the street;
- 25 (4) On private property, unless the panhandler has written permission from the owner or
- 26 occupant of the private property; or
- 27 (5) On any street, sidewalk, public right-of-way or public property by:
- 28 (A) Blocking the path of the person being asked for a donation;
- 29 (B) Following a person who walks away from the panhandler;
- 30 (C) Block a passage of sidewalk with a cart or buggy;
- 31 (D) Touching a person; or
- 32 (E) Making any statement, gesture, or other communication by which the panhandler
- 33 knowingly causes another to believe that the panhandler will cause physical harm to the person or
- 34 property of another person.
- 35 (6) At any location within 200 feet of the lateral curb of a Federal/US Route or an Interstate
- 36 Highway or an intersection with such route or highway;
- 37 (7) Within 150 feet of an ATM or bank entrance;
- 38 (8) Within 100 feet of the entrance and exit of any commercial establishment or at any
- 39 sidewalk café;
- 40 (9) Within 150 feet of any school, bus, train, or cab stops;
- 41 (10) Within 50 feet of a crosswalk; and
- 42 (11) Within any municipal-owned parking building, park, golf course, or playground.
- 43 (d) Panhandling or solicitation is also prohibited before 9am and after 6pm.
- 44 (e) No person panhandling may render any service to a vehicle without the consent from
- 45 the owner-operator.
- 46 (f) Upon first offense, a person violating any of the provisions of this section is guilty of a

47 misdemeanor and, upon conviction, shall be fined \$100. Upon a second or subsequent violation of
48 the provisions of this section, a person is guilty of a misdemeanor and, upon conviction, shall be
49 fined not less than \$250 nor more than \$1000.

50 (g) A bona fide fire department, any school extracurricular organization, or a registered
51 501(c)(3) organization is exempt from the provisions of §61-6-26(b) of this code when soliciting
52 donations to support its operation.

NOTE: The purpose of this bill is to make certain acts of panhandling and solicitation unlawful. The bill exempts fire departments, school organizations, and 501(c)(3) organizations. The bill provides misdemeanor penalties.

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