

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 488**

6 (By Senators Stollings, Kirkendoll, Green, D. Hall, Kessler (Mr.
7 President), Unger and Williams)

8 _____
9 [Originating in the Committee on the Judiciary;
10 reported March 26, 2013.]

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14 A BILL to amend and reenact §61-3-29 of the Code of West Virginia,
15 1931, as amended, relating to prohibiting damage to property
16 of railroads, public utilities and certain production storage
17 and distribution facilities; adding waste management
18 facilities, storage facilities and timber operations to the
19 protected properties; prohibiting destruction, damage or
20 removal of property resulting in impairment to the normal,
21 safe operation of those facilities; and providing criminal
22 penalties.

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

24 That §61-3-29 of the Code of West Virginia, 1931, as amended,

1 be amended and reenacted to read as follows:

2 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

3 **§61-3-29. Damage or destruction of railroad, public utility**
4 **company property, waste management facility or real or**
5 **personal property used for producing, generating,**
6 **transmitting, distributing, treating, storing or collecting**
7 **electricity, natural gas, oil, coal, timber, water,**
8 **wastewater, stormwater, telecommunications or cable service;**
9 **penalties; restitution.**

10 (a) Any person who knowingly and willfully damages or destroys
11 any real or personal property owned by a railroad company, ~~or~~
12 public utility company, waste management facility or any real or
13 personal property used for producing, generating, transmitting,
14 distributing, treating, storing or collecting electricity, natural
15 gas, oil, coal, timber, water, wastewater, stormwater,
16 telecommunications or cable service is guilty of a misdemeanor and,
17 upon conviction thereof, shall be fined not more than \$2,000, or
18 confined in jail not more than one year, or both fined and
19 confined.

20 (b) Any person who knowingly and willfully: (1) Damages or
21 destroys any real or personal property owned by a railroad company,
22 ~~or~~ public utility company, waste management facility or any real or
23 personal property used for producing, generating, transmitting,
24 distributing, treating, storing or collecting electricity, natural

1 gas, oil, coal, timber, water, wastewater, stormwater,
2 telecommunications or cable service; and (2) creates a substantial
3 risk of serious bodily injury to another or results in the
4 interruption of service to the public is guilty of a felony and,
5 upon conviction thereof, shall be fined not more than \$5,000, or
6 confined in a state correctional facility not less than one nor
7 more than three years, or both fined and imprisoned.

8 (c) Any person who knowingly and willfully: (1) Damages or
9 destroys any real or personal property owned by a railroad company,
10 ~~or~~ public utility company, waste management facility or any real or
11 personal property used for producing, generating, transmitting,
12 distributing, treating, storing or collecting electricity, natural
13 gas, oil, coal, timber, water, wastewater, stormwater,
14 telecommunications or cable service; and (2) causes serious bodily
15 injury to another is guilty of a felony and, upon conviction
16 thereof, shall be fined not less than \$5,000 nor more than \$50,000,
17 or confined in a state correctional facility not less than one nor
18 more than five years, or both fined and imprisoned.

19 (d) Any person who knowingly and willfully: (1) Damages or
20 destroys, tampers with or removes any real or personal property
21 owned by a railroad company, public utility company, waste
22 management facility or any real or personal property used for
23 producing, generating, transmitting, distributing, treating,
24 storing or collecting electricity, natural gas, oil, coal, timber,

1 water, wastewater, stormwater, telecommunications or cable service;
2 and (2) thereby hinders, impairs or disrupts, directly or
3 indirectly, the normal operation of any equipment, device, system
4 or service put in place, in whole or in part, to protect, promote
5 or facilitate the health or safety of any person is guilty of a
6 felony and, upon conviction thereof, shall be fined not less than
7 \$1,000 nor more than \$10,000, or confined in a state correctional
8 facility not less than one nor more than three years, or both fined
9 and imprisoned.

10 ~~(d)~~ (e) Nothing in this section may be construed to limit or
11 restrict the ability of an entity referred to in subsection (a),
12 (b), ~~or~~ (c) or (d) of this section or a property owner or other
13 person who has been damaged or injured as a result of a violation
14 of this section from seeking recovery for damages arising from
15 violation of this section.

(NOTE: The purpose of this bill is to provide for protection against property crimes committed against coal mines, utilities and other industrial facilities. The bill adds waste management facilities and timber operations to the protected facilities and provides for criminal penalties for the removal, destruction, or damage of real or personal property that impairs the normal operation any equipment or system used for the protection of health and safety of any person.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would

be added.)