

H. B. 2627

(By Delegates McCuskey, R. Phillips, R. Smith, J. Nelson, Stansbury,
McGeehan, Eldridge, Arvon, H. White, Marcum and Butler)

[Introduced February 5, 2015; referred to the
Committee on Energy then the Judiciary.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-29. Damage or destruction of railroad or public utility company property, or real or personal property used for producing, generating, transmitting, distributing, treating or collecting electricity, natural gas, coal, water, wastewater, stormwater, telecommunications or cable service; penalties; restitution.

(a) Any person who knowingly and willfully damages or destroys any real or personal

1 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection
2 equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or
3 personal property used for producing, generating, transmitting, distributing, treating, storing or
4 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,
5 telecommunications or cable service, is guilty of a misdemeanor and, upon conviction thereof, shall
6 be fined not more than \$2,000, or confined in jail not more than one year, or both fined and confined.

7 (b) Any person who knowingly and willfully: (1) Damages or destroys any real or personal
8 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection
9 equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or
10 personal property used for producing, generating, transmitting, distributing, treating, storing, or
11 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,
12 telecommunications or cable service; and (2) creates a substantial risk of serious bodily injury to
13 another or results in the interruption of service to the public is guilty of a felony and, upon conviction
14 thereof, shall be fined not more than \$5,000, or confined in a state correctional facility not less than
15 one nor more than three years, or both fined and imprisoned.

16 (c) Any person who knowingly and willfully: (1) Damages or destroys any real or personal
17 property owned by a railroad company, ~~or~~ public utility company, solid waste facility or collection
18 equipment as defined in section two, article fifteen, chapter twenty-two of this code, or any real or
19 personal property used for producing, generating, transmitting, distributing, treating, storing or
20 collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater,
21 telecommunications or cable service; and (2) causes serious bodily injury to another is guilty of a

1 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$50,000, or
2 confined in a state correctional facility not less than one nor more than five years, or both fined and
3 imprisoned.

4 (d) Any person who knowingly and willfully: (1) Damages or destroys, tampers with or
5 removes any real or personal property owned by a railroad company, public utility company, solid
6 waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two
7 of this code or any real or personal property used for producing, generating, transmitting,
8 distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing,
9 water, wastewater, stormwater, telecommunications or cable service; and (2) thereby hinders, impairs
10 or disrupts, directly or indirectly the normal operation of any equipment, device, system or service
11 put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person
12 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
13 \$10,000, plus the value of full replacement or repair of the property, or confined in a state
14 correctional facility not less than one nor more than three years, or both fined and imprisoned.

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

NOTE: The purpose of this bill is to provide 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.