

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 323

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,

ROMANO AND WILLIAMS

[Introduced January 19, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating
2 to correcting subsection designations in the statute regarding trespass on property; and
3 making other technical changes.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3B. TRESPASS.

§61-3B-3. Trespass on property other than structure or conveyance.

1 (a) It is an unlawful trespass for any person to knowingly, and without being authorized,
2 licensed or invited, to enter or remain on any property, other than a structure or conveyance, as
3 to which notice against entering or remaining is either given by actual communication to such
4 person or by posting, fencing or cultivation.

5 (b) First offense conviction. — Upon a first trespassing conviction pursuant to subsection
6 (a) ~~The~~ of this section, the person is guilty of a misdemeanor and, shall be fined not less than
7 \$100 nor more than \$500.

8 (c) Second offense conviction. — Upon a second trespassing conviction pursuant to
9 subsection (a) ~~The~~ of this section, the person is guilty of a misdemeanor and, shall be fined not
10 less than \$500 nor more than \$1,000.

11 (d) Third offense conviction. — Upon a third and subsequent trespassing conviction
12 pursuant to subsection (a) ~~The~~ of this section, the person is guilty of a misdemeanor and, shall
13 be fined not less than \$1,000 nor more than \$1,500.

14 (e) If the offender defies an order to leave, personally communicated to him or her by the
15 owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate,
16 and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes
17 any damage to property by such trespassing on property other than a structure or conveyance,
18 he or she ~~shall be~~ is guilty of a misdemeanor and, upon conviction, ~~thereof~~, shall be fined not less

19 than \$100 nor more than \$500, ~~or imprisoned in the county jail for a period not to exceed six~~
20 ~~months, or both such fine and imprisonment~~ confined in jail for not more than six months, or both
21 fined and confined.

22 ~~(e)~~ (f) If the offender is armed with a firearm or other dangerous weapon with the unlawful
23 and felonious intent to do bodily injury to a human being during his or her commission of the
24 offense of trespass on property other than a structure or conveyance, such offender, ~~shall,~~
25 notwithstanding section one, article seven, chapter sixty-one of this code, ~~be~~ is guilty of a
26 misdemeanor and, upon conviction, ~~thereof,~~ shall be confined in ~~the county jail for a term not to~~
27 ~~exceed six months, or fined not more than \$100, or both such fine and imprisonment~~ jail for not
28 more than six months, fined not more than \$100, or both confined and fined.

29 ~~(d)~~ (g) Notwithstanding and in addition to any other penalties provided by law, any person
30 who performs or causes damage to property in the course of a willful trespass shall be liable to
31 the property owner in the amount of twice the amount of such damage. However, this article shall
32 not apply in a labor dispute.

NOTE: The purpose of this bill is to correct the subsection designations in the statute regarding trespass on property and make other technical changes.

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

JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 323 — A Bill to amend and reenact §61-3B-3 of the Code of West Virginia, 1931, as amended, relating to correcting subsection designations in the statute regarding trespass on property; relettering certain subsections to avoid duplication of subsection designations; and making other stylistic and technical changes.