

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 37

BY SENATORS WOELFEL, TRUMP, AND OJEDA

[Originating in the Committee on the Judiciary;

reported on January 19, 2018]

1 A BILL to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating
2 to the crime of burglary; eliminating the offense of daytime burglary; making breaking and
3 entering or entering without breaking into a dwelling or outbuilding thereof a felony
4 regardless of time of day; and establishing the criminal penalty for burglary.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-11. Burglary; entry of dwelling or outhouse; penalties.

1 ~~(a) Burglary shall be a felony and, any person convicted thereof shall be confined in the~~
2 ~~penitentiary not less than one nor more than fifteen years. If any person shall in the nighttime,~~
3 ~~break and enter, or enter without breaking, or, shall in the daytime, break and enter the dwelling~~
4 ~~house, or an outhouse adjoining thereto or occupied therewith, of another, with intent to commit~~
5 ~~a crime therein, he shall be deemed guilty of burglary~~ Any person who breaks and enters, or
6 enters without breaking, a dwelling house or outbuilding adjoining a dwelling with the intent to
7 commit a violation of the criminal laws of this state is guilty of a felony and, upon conviction
8 thereof, shall be imprisoned in a state correctional facility for not less than one nor more than 15
9 years.

10 ~~(b) If any person shall, in the daytime, enter without breaking a dwelling house, or an~~
11 ~~outhouse adjoining thereto or occupied therewith, of another, with intent to commit a crime therein,~~
12 ~~he shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary~~
13 ~~not less than one nor more than ten years~~

14 ~~(c) (b)~~ The term "dwelling house", as used in subsections ~~(a) and (b) of this section~~ §61-
15 3-11(a), shall ~~include, but not be~~ includes, but is not limited to, a mobile home, house trailer,
16 modular home, factory-built home or self-propelled motor home, used as a dwelling regularly or
17 only from time to time, or any other ~~non~~nonmotorized vehicle primarily designed for human
18 habitation and occupancy and used as a dwelling regularly or only from time to time.