

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4273**

BY DELEGATES REED, SMITH, JENNINGS, SYPOLT,

B. WARD, BOOTH, MALLOW, WORRELL, MANDT,

PAYNTER, AND FOSTER

[Introduced January 19, 2022; Referred to the

Committee on the Judiciary]

1 A BILL to amend §61-3B-3 of the code of West Virginia, 1931, as amended, relating to modifying  
2 the penalties for trespassing; and establishing a West Virginia database for sheriff's  
3 departments to have a record of who is barred from trespassing on a landowner's private  
4 property.

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

### **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) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$100 nor  
7 more than \$500.

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

11 (d) Third offense conviction. — Upon a third and subsequent trespassing conviction  
12 pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined  
13 ~~not less than \$1,000 nor more than \$1,500~~ \$5,000.

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 is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor  
19 more than \$500, confined in jail for not more than six months, or both fined and confined.

20 (f) If the offender is armed with a firearm or other dangerous weapon with the unlawful and  
21 felonious intent to do bodily injury to a human being during his or her commission of the offense  
22 of trespass on property other than a structure or conveyance, such offender, notwithstanding §61-  
23 7-1 of this code, is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not  
24 more than six months, fined not more than \$100, or both confined and fined.

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

29 (h) There shall be an online database created for each sheriff's office in West Virginia in  
30 order for that office to track individuals who are barred from private property, in lieu of the current  
31 requirement for a landowner to write to a sheriff's office to trespass someone from their land. The  
32 database shall have a means by which a landowner can input the name of a particular person  
33 who is trespassed from that property. The sheriff's office may consult the database to determine  
34 whether or not an individual is trespassed and can issue fines or punishment accordingly.

NOTE: The purpose of this bill is to modify the penalties for trespassing. The bill also provides for a database for landowners to input names of persons trespass from their property, and this database will allow sheriff's departments to monitor those persons who are trespassed from private property, instead of a landowner having to physically write to the sheriff's office to request a trespass of a particular person.

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