WEST VIRGINIA CODE CHAPTER 3 ARTICLE 9

WV Legislature

§3-9-1. False or fraudulent returns; tampering with, destroying or misdelivering ballots, records, etc.; forgeries; aiding, etc., in offense; penalties.

Every person named and identified in this section, who shall violate any of the provisions of the election laws as herein specified, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than one nor more than ten years:

(a) Any commissioner of election or poll clerk who shall knowingly make or cause to be made, or conspire with others to make, a false return of the result of the votes cast for any candidate at any precinct in an election held pursuant to law; or

(b) Any commissioner of election receiving the ballot of a voter to be deposited in the ballot box at any election precinct, who shall put another ballot in the box instead of the one received by him; or

(c) Any commissioner of election or poll clerk, who knowingly shall count and string a ballot not taken from the ballot box, in lieu of one taken, or which should have been taken from such ballot box; or

(d) Any commissioner of a county court, whether acting as such or ex officio as a member of a board of canvassers or otherwise, clerk of a county court, or other person, who shall, except as authorized by law, abstract any ballot from any package of ballots voted, sealed or returned from any election precinct, either before or after they are filed with the clerk of the county court, or who shall in any manner change any such ballot from what it was when voted by the voter, or who shall put another ballot in such package in the place of the one so abstracted therefrom; or

(e) Any commissioner of a county court, whether acting as such commissioner or ex officio as a member of a board of canvassers, or otherwise, who shall knowingly make and enter of record, or in any way aid, counsel, or advise the same to be done, or permit the same to be done without objection on his part, any false or fraudulent statement of the result of any election held within the county; or

(f) Any person who shall falsely make, or fraudulently deface, or fraudulently destroy, any certificate of nomination, or any part thereof, or file any certificate of nomination, knowing the same, or any part thereof, to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof; or erase, deface, or change in any manner, any election record, or any ballot, poll book, tally sheet or certificate of election, deposited with either of the clerks of the county or circuit courts; or conspire with another to do any of said acts; or induce or attempt to induce any other persons to do any of said acts; or

(g) Any person who shall aid, assist, counsel or advise in the commission of any of the offenses above specified, whether or not said acts, or any of them be committed or attempted to be committed; or

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(h) Any person, who, without the assent of another, shall sign the name of such other person to any certificate, affidavit, ballot, report, statement or writing, required under any provision of this chapter, with intent to mislead and deceive; or who shall use or employ any certificate, affidavit, ballot, report, statement or writing to which the name of a person has been signed without the authority of such person, knowing that such name has been so signed with intent to mislead or deceive; or

(i) Any clerk of a court, poll clerk, member of the board of ballot commissioners, commissioner of election, or messenger intrusted with the custody of the ballots, who shall open unlawfully any of the packages in which the ballots are contained, or permit any of them to be opened, or destroy any of such ballots, or permit them to be destroyed, or give, or deliver any such packages or ballots to any person not lawfully entitled to receive them, as in this chapter provided, or conspire to procure, or in any way aid, abet, or connive at any robbery, loss or unlawful destruction of any such ballots or packages; or

(j) Any person not duly authorized by law who shall, during the progress of any election in this state, or after the closing of the polls and before the ballots are counted and the results ascertained, or within twelve months thereafter, open without breaking, or break open or violate, the seals or locks of any ballot box, paper, envelope or bag, in which ballots have been deposited at or after such election, or who shall obtain possession of such ballot box, paper, envelope or bag containing such ballots, and cancel, withhold, or destroy such ballots, or who shall fraudulently or forcibly add to or diminish the number of ballots legally deposited therein, or who shall fraudulently make any erasure or alteration of any kind, upon any tally sheet, poll book, list of voters, or election returns, deposited therein; or

(k) Any person who knowingly, willfully and without authorization from the Secretary of State, a county clerk or municipal clerk directly or indirectly, tampers with, deletes, alters, damages or destroys or attempts to tamper with, delete, alter, damage or destroy any computer or computer network that contains voter registration files, records or data or who knowingly introduces, directly or indirectly, a computer contaminant into any computer, computer program or computer network that contains voter registration files, records or data; or

(l) Any person who knowingly, directly or indirectly, accesses, attempts to access, or causes to be accessed any voter registration files, records or data stored on or in a computer owned by the Secretary of State, a county commission or municipality, without authorization; or

(m) Any person employed by the Secretary of State, a county commission or a municipality who knowingly, directly or indirectly accesses, attempts to access or causes to be accessed any voter registration files, records or data stored on or in a computer in an unauthorized manner, in excess of his or her authorization or for unauthorized use or purpose.

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§3-9-2. Unlawful printing, possession or delivery of ballots; penalties.

No one, except the person employed and authorized by the ballot commissioners to do so, shall print any ballot for any election. No person engaged or employed in printing such ballots shall deliver any ballot to any person except a member of the board of ballot commissioners, or knowingly permit any other person to obtain possession of any ballot; or print, or cause to be printed, any ballot in any other form, or with the names of any other persons thereon, or with the names thereon spelled or arranged in any other manner than that prescribed by the ballot commissioners. No person shall print, have in his possession, or deliver, any imitation ballot having a similitude or likeness to the official ballot, and which would be calculated to deceive: Provided, however, That nothing herein contained shall prohibit any person from printing or having in his possession a sample ballot printed on paper of a color different from the official ballot, and not calculated to deceive. Any person violating any provision of this section shall be guilty of a felony, and, on conviction thereof, shall be punished by imprisonment in the state penitentiary for not less than one nor more than ten years.

Any person who shall unlawfully take or remove, with or without the consent of the lawful custodian thereof, any ballot from the place at which such ballots are lawfully kept for the time being; or unlawfully remove or attempt to remove any ballot from the election room; or have in his possession outside of the election room during the election any ballot, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years, or, in the discretion of the court, be confined in jail for not more than one year.

WV Legislature

§3-9-3. False swearing; penalties.

(a) If any election official, or other person, making any affidavit required under any provision of this chapter, shall therein knowingly swear falsely, or if any person shall counsel, advise, aid or abet another in the commission of false swearing, he shall be guilty of a misdemeanor, and, on conviction therefor shall be fined not less than $50 nor more than $1,000 and imprisoned in the county jail for a period of not more than one year.

(b) If any person making any declaration required under any provision of this chapter shall knowingly make a false statement or representation therein, or if any person shall counsel, advise, aid or abet another to make such a declaration containing any false statement or representation, any such person shall be deemed to be guilty of false swearing although no oath was administered, and such offense is hereby declared to be a misdemeanor. Upon conviction of such offense, any such person shall be fined not less than $50 nor more than $1,000 and imprisoned in the county jail for a period of not more than one year.

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§3-9-4. Commissioner's failure to procure or return supplies; penalties.

Any commissioner of election designated to call for and deliver election supplies as provided in article one of this chapter who shall wilfully or negligently fail to appear at the offices of the clerks of the circuit and county courts of his county and procure and deliver such supplies, or who shall wilfully or negligently fail or refuse to return such supplies, as provided in articles five and six of this chapter, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than $10 nor more than $100.

WV Legislature

§3-9-5. Destruction or removal of election supplies and equipment; attempts; penalties.

If any person shall, during the election, remove or destroy any of the supplies or other conveniences placed in the booths or compartments as aforesaid, or delivered to the voter for the purpose of enabling the voter to prepare his ballot or shall, during an election, remove, tear down or deface, the cards printed for the instruction of the voters, or shall, during an election, destroy or remove any booths or other convenience provided for such election, or shall induce or attempt to induce any person to commit any of such acts, whether or not any of such acts be committed, or attempted to be committed, then such person shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000 or confined in the county jail for not more than one year, or both, in the discretion of the court.

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§3-9-6. Unauthorized presence in election room; 100-foot limit; penalties.

If any person, not herein authorized so to do, enters or attempts to enter the election room, except upon a lawful errand and for a proper purpose, or remains within 100 feet of the outside entrance to the building housing the polling place, contrary to the provisions of this chapter, he shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50 nor more than $500, or confined in the county jail for not more than 30 days.

Excepting those individuals provided for expressly in this or other sections of the code, only full-time employees of the Secretary of State's office or full-time employees of the respective county offices of the county clerk or the county prosecutor may enter or otherwise disturb the polling place.

WV Legislature

§3-9-7. Wrongful refusal or allowance of votes; malicious or frivolous challenges; penalties.

Any election officer who refuses the vote of a duly registered and qualified voter, whom he knows is entitled to vote or who accepts the vote of a person whom he knows to be not lawfully registered, without challenging such persons, shall be guilty of a misdemeanor, and, upon conviction, fined not more than $1,000 or confined in the county jail for not more than one year, or both, at the discretion of the court.

Any person who shall maliciously or frivolously, and without probable cause, challenge the right of any person to vote, shall be guilty of a misdemeanor, and, upon conviction, be fined not more than $100 or confined in the county jail for not more than ninety days, or both, in the discretion of the court.

WV Legislature

§3-9-8. Distinguishing marks on ballots; conspiracies; penalties.

If any person shall induce, or attempt to induce, any voter to write, paste or otherwise place on his ballot the name of any person, or any sign or device of any kind, as a distinguishing mark by which to indicate to any other person how such voter voted, or shall enter into or attempt to form any agreement or conspiracy with any other person to induce or attempt to induce a voter to so place a distinguishing name or mark on his ballot, whether or not such act be committed or attempted to be committed, such person so offending shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than $1,000, or be imprisoned in the county jail for not more than one year, or both, in the discretion of the court.

WV Legislature

§3-9-9. Electioneering defined; unlawful acts at polling places; exceptions; penalties.

(a) As used in this section, "electioneering" means the displaying of signs or other campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question. "Electioneering" does not include exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of one hundred feet of the entrance to a polling place while such person is voting or transporting any voter to the polls.

(b) No officer of election may disclose to any person the name of any candidate for whom a voter has voted. No officer of election may do any electioneering on election day.

(c) No person may do any electioneering on election day within any polling place, or within one hundred feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within one hundred feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection shall prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and ordinances.

(d) No person may apply for or receive any ballot in any polling place, other than that in which the person is entitled to vote, nor may any person examine a ballot which any voter has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement, directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of election, may receive from any voter a ballot prepared by him or her for voting. No voter may receive a ballot from any person other than one of the poll clerks; nor may any person other than a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No voter may deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him or her.

(e) Whoever violates any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $100 nor more than $1,000, or confined in jail for not more than one year, or both fined and confined.

WV Legislature

§3-9-10. Disorder at polls; prevention; failure to assist in preventing disorder; penalties.

Any person who shall, by force, menace, fraud or intimidation, prevent or attempt to prevent any officer whose duty it is by law to assist in holding an election, or in counting the votes cast thereat, and certifying and returning the result thereof, from discharging his duties according to law; or who shall, by violence, threatening gestures, speeches, force, menace or intimidation, prevent or attempt to prevent an election being held; or who shall in any manner obstruct or attempt to obstruct the holding of an election, or who shall, by any manner of force, fraud, menace or intimidation, prevent or attempt to prevent any voter from attending any election, or from freely exercising his right of suffrage at any election at which he is entitled to vote, shall be guilty of a misdemeanor, and, upon conviction, fined not more than $1,000, or confined in the county jail for not more than one year, or both, in the discretion of the court.

Any person who, being thereto commanded by the commissioners of election, or either of them, shall fail or refuse to assist to the utmost of his power, in whatever may be necessary or proper to prevent intimidation, disorder or violence at the polls, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than $100.

WV Legislature

§3-9-11. Failure to make returns; penalties.

Any election officer who shall wilfully fail, neglect or refuse to prepare and return certificates of the result of the election in the manner provided, within twelve hours after the completion of the count, tabulation and declaration of the results, shall be guilty of a misdemeanor, and, upon conviction, fined not more than $1,000, or confined in the county jail for not more than one year, or both, in the discretion of the court.

WV Legislature

§3-9-12. Improper influence and bribery by candidates; penalties.

Whoever, being a candidate for any office, loans or gives, directly or indirectly, or offers or promises to loan, or give, any money, or other thing of value, to any elector, for the purpose of influencing or retaining the vote of such elector, or inducing such elector to work or labor for the election of such candidate, or to refrain from working or laboring for the election of any other candidate; or to any person to secure or to retain the influence or vote of such elector, in his behalf as such candidate, or to be used by such person in any way to influence the vote of any elector, or of electors generally, for himself or any candidate or ticket, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or confined in the county jail for not more than one year, or both, in the discretion of the court.

WV Legislature

§3-9-13. Buying or selling vote unlawful; penalties.

(a) It is unlawful for any person to offer or to pay money or any other thing of value to any person as consideration for the vote of the offeree or payee, as the case may be, to be cast for or against any candidate or issue in any election held in the state. Any person who violates the provisions of this subsection shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than $5,000 or imprisoned for a period of not less than one year, nor more than five years, or both.

(b) It is likewise unlawful for any person to accept or agree to accept money or other thing of value as consideration for the vote of the acceptee, to be cast for or against any candidate or issue in any election held in the state. Any person who violates the provisions of this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or imprisoned in the county jail not more than one year, or both.

WV Legislature

§3-9-14.

Repealed.

Acts, 2010 Reg. Sess., Ch. 76.

WV Legislature

§3-9-15. Unlawful acts by employers; penalties.

Any employer or agent of any employer or corporation, who prints or authorizes to be printed upon any pay envelope or who distributes directly or indirectly, or gives directly to any employee any statement intended or calculated to influence the political action of his employees for any candidate for public office, or posts or exhibits in the establishment, any posters, placards, or handbills, or delivers verbally any message to any such employees, containing any threat, notice or information that if any such candidate is elected or defeated, work in the establishment will cease, in whole or in part, or other threats expressed or implied, intended to influence the political opinions or votes of his employees, shall be guilty of corrupt practices, and, upon conviction, shall be fined not less than $1,000 nor more than $20,000 or be imprisoned in jail not more than one year, or both.

WV Legislature

§3-9-16. Receiving or soliciting bribes by voters; penalties.

Any voter who shall, before or during any election, directly or indirectly, by himself, or by any other person on his behalf, solicit, demand, receive, agree or contract for any money, gift, loan, or valuable consideration, office, place of employment, or solicit any endorsement on a note or other paper, public or private, for himself or for any other person, for voting or agreeing to vote, or for voting for any person or candidate or object, or agreeing so to vote, or from refraining or agreeing to refrain from voting at any election; or any person who shall, after any election, directly or indirectly, by himself, or by any other person on his behalf, solicit, demand or receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than one year, or both, in the discretion of the court.

WV Legislature

§3-9-17. Illegal voting; deceiving voters; penalties.

(a) Any person who knowingly and willfully votes or attempts to vote more than once at the same election held in this state; in more than one county in this state at the same or equivalent election; or, in this state and another state or territory at the same or equivalent election, irrespective of different offices, questions, or candidates on the ballot, knowing the same to be illegal, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than $10,000, or both, in the discretion of the court.

(b) Any person who knowingly and willfully votes or attempts to vote when the person knows he or she is not legally entitled to do so; or procures or assists in procuring an illegal vote to be admitted, or received, at an election, knowing the same to be illegal; or causes or assists in causing a legal vote to be rejected, knowing the same to be legal, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than $10,000, or both, in the discretion of the court.

(c) Any person who knowingly and willfully, with intent to deceive, alters the ballot of a voter by marking out the name of any person for whom such voter desires to vote; or, with like intent, writes the name of any person on such ballot other than those directed by the voter; or with like intent, makes any alteration thereof, whether such ballot be voted or not; or defrauds any voter at any election, by deceiving and causing him or her to vote for a different person for any office than he or she intended or desired to vote for, is guilty of a felony and, on conviction thereof, shall be imprisoned for not less than one year but not more than 10 years, or fined not more than $10,000, or both, in the discretion of the court.

WV Legislature

§3-9-18. Unlawful voting in primary elections; penalties.

Any person voting, in any primary election, any ticket of a party other than that of which he is registered as a member, and any election officer receiving the vote of any such person, knowing, or having reason to believe, that such voter is not a member of the party the ticket of which he is voting, shall, at the primary election to be held to nominate candidates for the same office, vote at such primary election; shall in each instance be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or be confined in the county jail for not more than one year, or both, in the discretion of the court.

WV Legislature

§3-9-19. Violations concerning absent voters' ballots; penalties.

(a) Any person who, with the intent to commit fraud, obtains, removes, or disseminates an absent voter’s ballot, intimidates an absent voter, or completes or alters an absent voter’s ballot, is guilty of a felony and, upon conviction thereof, shall be fined not less than $10,000 nor more than $20,000, imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Notwithstanding subsection (a) of this section, any person who, having procured an absent voter's official ballot or ballots, shall willfully neglect or refuse to return the same as provided in article three of this chapter, or who shall otherwise willfully violate any of the provisions of said article three of this chapter, is guilty of a misdemeanor and, on conviction thereof, shall be fined not more than $250, or confined in jail for not more than three months. If the clerk of the county commission of any county, or any member of the board of ballot commissioners, or any member of the board of canvassers refuses or neglects to perform any of the duties required of him or her by any of the provisions of articles three, five and six of this chapter relating to voting by absentees or discloses to any other person or persons how any absent voter voted, he or she shall, in each instance, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500, or confined in jail for not more than six months.

WV Legislature

§3-9-20. Obstructing employees' freedom to vote; penalties.

Any corporation violating any provision of section forty-two of article one of this chapter or preventing or attempting to prevent any voter in its employ from attending any election, or from freely exercising his right of suffrage, at any election, at which he is entitled to vote, by any threat, direct or indirect, express or implied, to discharge such voter or deprive him of his employment, or shall discharge such voter or deprive him of his employment because of any vote he may cast, or refuse to cast, at any election at which he is entitled to vote, under the provisions of this chapter, shall, in each instance, be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000. Any employer, other than a corporation, whether an individual or member of an association or partnership, and any officer, agent or manager of any corporation violating any provision of this section or of section forty-two of article one of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding five $500 or imprisoned in the county jail for a period not exceeding six months, or, in the discretion of the court, be subject to both such fine and imprisonment.

WV Legislature

§3-9-21. Improper interference with voters' travel to and from the polls; penalties.

Any person, during hours a polling place is open for any election, who intentionally physically interferes with a voter's travel on the walkways, driveways, and parking areas adjacent to a building in which a polling place is located with the intention to delay, hinder, interrupt, harass, or intimidate a voter shall be guilty of a misdemeanor and fined not more than $1,000 or confined in jail for not more than one year or both fined and confined.

WV Legislature

§3-9-22. Wagering or betting on elections; penalties.

It shall be unlawful to bet or wager money or other thing of value on any election held in this state. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, he shall forfeit the value of the money or thing so bet or wagered and shall be fined not more than $50.

WV Legislature

§3-9-23. Punishment where penalty not prescribed or where failure to perform duty not specifically made an offense.

Any person who shall commit any act made an offense by any provision of this chapter, for which no penalty or punishment is prescribed by any other provision contained therein, or any person who shall fail to perform any duty prescribed therein which has not been specifically made an offense, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or, in the discretion of the court, be confined in jail for not more than one year.

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§3-9-24. Limitations on prosecutions.

No person shall be prosecuted for any crime or offense under any provision of this chapter, unless upon an indictment found and presentment made within five years after the date of the commission of the crime or offense.

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