WEST VIRGINIA CODE CHAPTER 61 ARTICLE 10

WV Legislature

§61-10-1. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine or device; forfeiture of money used in such gaming.

Any person who shall keep or exhibit a gaming table, commonly called A.B.C. or E.O. table, or faro bank, or keno table, or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine, or any other gaming table or device of like kind, under any denomination, or which has no name, whether the game, table, bank, machine or device be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in keeping or exhibiting such table, bank, machine or gaming device of any character, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than two nor more than twelve months and be fined not less than $100 nor more than $1,000. Any such table, faro bank, machine or gaming device, and all money staked or exhibited to allure persons to bet at such table, or upon such gaming device, may be seized by order of a court, or under the warrant of a justice, and the money so seized shall be forfeited to the county and paid into the treasury of the county in which such seizure is made, and the table, faro bank, machine or gaming device shall be completely destroyed: Provided, however, That the provisions of this section shall not extend to coin-operated nonpayout machines with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value or services for each coin deposited therein and in which there is no element of chance.

WV Legislature

§61-10-2. Permitting gaming table or device on premises; penalty.

If any person knowingly permit a gaming table, bank or device, such as is mentioned in the preceding section, to be kept or exhibited on any premises in his occupation, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year, and be fined not less than $100 nor more than $1,000.

WV Legislature

§61-10-3. Unlawful to act as doorkeeper, guard or watch for keeper of gaming table or device; penalty.

If any person shall act as doorkeeper, guard or watch, or employ another person to act as such, for a keeper or exhibitor of any such gaming table, bank or device, or shall resist, or by any means or device, prevent, hinder or delay the lawful arrest of such keeper or exhibitor, or the seizure of the table, bank or device, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding $1,000.

WV Legislature

§61-10-4. Playing or betting at gaming tables and devices; playing or betting on games at hotels and public places; penalty.

If any person bet or play at any such gaming table, bank or device as is mentioned in the first section of this article, or if, at any hotel or tavern, or other public place, or place of public resort, he play at any game except bowls, chess or backgammon, draughts or a licensed game, or bet on the sides of those who play at any game, whether the game be permitted or licensed or not, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than $100, and shall, if required by the court, give security for his good behavior for one year, or, in default thereof, may be imprisoned in the county jail not more than three months.

WV Legislature

§61-10-5. Betting on games of chance; furnishing money or thing of value therefor; penalty.

If any person at any place, public or private, bet or wage money or other thing of value on any game of chance, or shall knowingly furnish any money or other thing of value to any other person to bet or wage on any such game, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $5 nor more than $300, and shall, if required by the court, give security for his good behavior for one year, and in default of the payment of such fine and the costs and the execution of such bond, if such bond be required, shall be imprisoned in the county jail not less than ten nor more than thirty days.

WV Legislature

§61-10-6. Permitting gaming at hotels; penalty.

If the keeper of a hotel or tavern permit unlawful gaming at his house, or at any outhouse, booth, arbor, or other place appurtenant thereto or held therewith, he shall be guilty of a misdemeanor, and, upon conviction, be fined not less than $20 nor more than $100, and shall forfeit his license, and shall give security for his good behavior for one year, or, in default of such security, be imprisoned in the county jail not more than four months.

WV Legislature

§61-10-7. Presumption against hotelkeeper.

In a prosecution under the preceding section, if the gaming be proved, it shall be presumed it was permitted by the keeper of the hotel, unless it appear that he did not know of or suspect such gaming, or that he endeavored to prevent it, and gave information of it, with the names of the players, to the next circuit court of the county in which such gaming occurred, or to the prosecuting attorney thereof.

WV Legislature

§61-10-8. Gaming at outhouse of hotel; penalty.

If the keeper of a hotel or tavern let or hire to another person any outhouse or other place, which has been at any time appurtenant to or held with the house kept by him with intent that unlawful gaming be permitted thereat, he shall suffer the same punishment and incur the same forfeiture as if such unlawful gaming were permitted at his own principal house; and in a prosecution therefor, if the gaming be proved, it shall be presumed that such outhouse or other place was let or hired with intent aforesaid, unless the presumption be repelled in the manner provided for in the preceding section.

WV Legislature

§61-10-9. Cheating at gaming; penalty.

If any person playing at any game, or making a wager, or having a share in any stake or wager, or betting on the hands or sides of others playing at any game or making a wager, shall cheat, or by fraudulent means win or acquire for himself or another, money or other valuable thing, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and fined not less than five times the value of the money or thing won or acquired.

WV Legislature

§61-10-10. Poolroom defined; selling tickets and chances in lottery; penalty.

The word “poolroom,” wherever the same is used in this section, shall be held and construed to mean any room where any pool ticket, chance voucher or certificate is sold entitling or purporting to entitle the holder or promisee thereof, or any other person, to money or other thing of value, contingent upon the result of any horse race, prizefight, game of chance, game of skill or science, or other sport or contest. Any person who shall set up or promote, or be connected with or interested in the management or operation of any poolroom, his agents, servants or employees, they, and each of them, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 for each offense, and may, in the discretion of the court, be confined in jail not to exceed one year. The buying, selling or transferring of tickets or chances in any lottery shall be and the same is hereby prohibited.

WV Legislature

§61-10-11. Lotteries or raffles; penalty.

If any person shall set up or promote or be concerned in managing or drawing a lottery or raffle, for money or other thing of value, or knowingly permit such lottery in any house under his control, or knowingly permit money or other property to be raffled for in such house, or to be won therein, by throwing or using dice, or by any other game of chance, or knowingly permit the sale in such house of any chance or ticket, or share of a ticket, in a lottery, or any writing, certificate, bill, token or other device purporting or intended to guarantee or assure to any person, or to entitle him to a prize, or a share of, or interest in, a prize to be drawn in a lottery, or shall, for himself or any other person, buy, sell, or transfer, or have in his possession for the purpose of sale, or with intent to exchange, negotiate, or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket, or a share of a ticket, in a lottery, or any such writing, certificate, bill, token or device, he shall be guilty of a misdemeanor, and, upon conviction, shall, in the discretion of the court, be confined in jail not more than one year or be fined not exceeding $1,000, or both: Provided, however, That this section shall not be deemed to apply to that certain type or form of lottery or raffle designated and familiarly known as “policy” or “numbers.”

WV Legislature

§61-10-11a. "Policy" or "numbers"; penalty.

Any person who keeps, occupies or uses, or permits to be kept, occupied or used, a place, building, room, table, establishment or apparatus for "policy" or "numbers" playing or for the sale of what are commonly called "lottery policies," or who delivers or receives money or other valuable consideration in playing "policy" or "numbers," or in aiding in the playing thereof, or for what is commonly called a "lottery policy," or for any writing, or document in the nature of a bet, wager, or insurance upon the drawing or selection, or the drawn or selected numbers of any "policy" or "numbers" lottery; or who shall have in his possession, knowingly, any writing, paper or document, representing or being a record of any chance, share or interest in numbers sold, drawn or selected, or to be drawn or selected in what is commonly called "policy" or "numbers," or in the nature of a bet, wager or insurance, upon the drawing or selection, or the drawn or selected numbers of any "policy" or "numbers" lottery; or any paper, print, writing, number, device, policy slip, or article of any kind such as is commonly used in carrying on, promoting or playing the game commonly called "policy" or "numbers"; or who is the owner, agent, superintendent, janitor or caretaker of any place, building, or room where "policy" or "numbers" playing or the sale of what are commonly called "lottery policies" is carried on with his knowledge or after notification that the premises are so used, permits such use to be continued, or who aids, assists, or abets in any manner, in any of the offenses, acts or matters herein named, shall be guilty of a felony and, upon conviction, shall, in the discretion of the court, either be confined in the penitentiary not less than one year nor more than five years, or be confined in jail not less than six nor more than twelve months and fined not less than $200 nor more than $1,000. Upon commission of a second or subsequent offense under this section, he shall be guilty of a felony and, upon conviction shall be confined in the penitentiary of this state for a period of not less than two years nor more than ten years.

WV Legislature

§61-10-11b. Possession of “policy” or “numbers” slips unlawful.

The possession, by any person other than a public officer acting in his official capacity, of any writing, paper, or document representing or being a record of any chance, share or interest in numbers, sold, given away, drawn, or selected, or to be drawn or selected, in what is commonly called “policy” or “numbers,” or in the nature of a bet, wager or insurance upon the drawing or selection, or the drawn or selected numbers of any “policy” or “numbers” lottery, or any paper, print, writing, numbers of device, policy slip, or article of any kind, such as is commonly used in carrying on, promoting or playing the game commonly called “policy” or “numbers,” is presumptive evidence of possession thereof knowingly and in violation of the provisions of section eleven-a of this article.

WV Legislature

§61-10-12. Proceeds of lottery forfeited to the state.

All money and things of value drawn or proposed to be drawn by an inhabitant of this state, and all money or other things of value received by such person by reason of his being the owner or holder of a ticket, or a share of a ticket, in any lottery, or pretended lottery, contrary to the provisions of this article, shall be forfeited to the state.

WV Legislature

§61-10-13. Associations and companies trading as bank without authority of law; penalty.

All members of any association or company that shall trade or deal as a bank, or carry on banking, without authority of law, and their officers and agents therein or thereof, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months, and fined not less than $100 nor more than $500.

WV Legislature

§61-10-14. Laws on gaming, lotteries and unchartered banks remedial.

All laws for suppressing gaming, lotteries and unchartered banks shall be construed as remedial.

WV Legislature

§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor, or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $2,500 and the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;

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(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

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(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 *et seq*. of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.

(n) It is not a violation of subsection (a) of this section for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if:

(1) It is not a contract for services;

(2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost;

(3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and

(4) The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission permitting the employee to have a pecuniary interest in the contract.

WV Legislature

§61-10-16. Picture or theatrical act reflecting upon any race or class of citizens; penalty.

It shall be unlawful for any person, corporation or company to advertise, exhibit, display or show any picture or theatrical act in any theater or other place of public amusement or entertainment within this state, which shall in any manner injuriously reflect upon the proper and rightful progress, status, attainment or endeavor of any race or class of citizens, calculated to result in arousing the prejudice, ire or feelings of one race or class of citizens against any other race or class of citizens. Any person, corporation or company violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $100 nor more than $1,000, and may, in the discretion of the court, be confined in jail not more than thirty days.

WV Legislature

§61-10-17. Lobbying on floor of Legislature; ejection of lobbyist; penalty; jurisdiction.

It shall be unlawful for any person to lobby for or against any measure on the floor of either House of the Legislature while the same is in session. If any person be found so lobbying in violation of this section, it shall be the duty of the sergeant at arms to eject such person from the floor of either House of the Legislature, upon his own knowledge, or upon the complaint of any member. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50 nor more than $200, and in addition thereto he shall be imprisoned in the county jail of the county where such conviction is had, for not less than ten days nor more than six months. Any of the circuit courts, criminal courts, or justices of the peace within the county of Kanawha are hereby given jurisdiction of the offense herein set forth, and the proceedings hereunder shall be conducted as for other offenses.

WV Legislature

§61-10-18.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-19. Cornering market in foods or other necessities of life; penalty.

It shall be unlawful for any person or body of persons buying or selling any foodstuffs, fuel or any article or articles pertaining to necessities of life, either in his individual capacity or as an officer, agent, or employee of a corporation, or a member of a partnership, to store any such foodstuffs, fuel, article or articles for the purpose of cornering the market or affecting the market price thereof, or for the purpose of limiting the supply thereof to the public, whether temporarily or otherwise. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, and may, in the discretion of the court, be confined in the county jail not exceeding one year.

WV Legislature

§61-10-20. Failure of employers to provide certain benefits for employees.

(a) In addition to any other penalty or punishment otherwise prescribed by law, any employer who is party to an agreement to pay or provide benefits or wage supplements and who without reasonable justification willfully fails or refuses to pay the amount or amounts necessary to provide the benefits or furnish the supplements within 30 days after the payments are required to be made, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500. When the employer is a corporation, the president, secretary, treasurer or officer exercising responsibility for the nonpayment is guilty of the offense prohibited by this section.

(b) Any person who is responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board pursuant to §5-10D-1 et seq. of this code, who knowingly and willfully fails to make employee or employer contributions to the retirement plan for a period of 60 days after the payment is due is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500 or shall be confined in jail for not more than six months, or both fined and confined.

(c) Conviction of a violation of subsection (b) of this section is prima facie evidence of official misconduct.

WV Legislature

§61-10-21. Unlawful use of prefix “Doctor” or “Dr.” penalty.

[Repealed].

WV Legislature

§61-10-22. Bribery of participants in professional or amateur games and horse racing; penalty.

Whoever gives, promises or offers to any professional or amateur baseball, football, basketball, hockey player or boxer or any player who participates in any professional or amateur game or sport or any jockey, driver, groom or any person participating in any horse race, including owners of racetracks and their employees, stewards, trainers, judges, starters, special policemen, any valuable thing with intent to influence him to lose or try to lose or cause to be lost a baseball, football, basketball or hockey game, boxing match or a horse race or any professional or amateur sport, or game, in which such player or participant or jockey or driver is taking part or expects to take part, or has any duty or connection therewith, or who, being either a professional or amateur baseball, football, basketball, hockey player, boxer, or jockey, driver, or groom or participant in any sport or game solicits or accepts any valuable thing to influence him to lose or cause to be lost a baseball, football, basketball, hockey or boxing match, or horse race or any professional or amateur game or any professional or amateur sport in which he is taking part, or expects to take part, or has any duty or connection therewith, shall be guilty of a felony and, punishable by imprisonment for not less than one year, nor more than three years, or by a fine of not more than $1,000, or by both fine and imprisonment.

WV Legislature

§61-10-23. Debt pooling; definition; offenses; penalty; jurisdiction; pleading and proof.

"Debt pooling" shall mean the rendering in any manner of advice or services of any and every kind in the establishment or operation of a plan pursuant to which a debtor would deposit or does deposit funds for the purpose of distributing such funds among his creditors. It shall be unlawful for any person to solicit in any manner a debt pooling. It shall further be unlawful for any person, except licensed attorneys, to make any charge for a debt pooling by way of fee, reimbursement of costs, or otherwise, in excess of an amount equal to two percent of the total amount of money actually deposited pursuant to a debt pooling: Provided, That any nonprofit firm, corporation or voluntary association may make an additional charge not exceeding five percent of the total amount of money actually deposited pursuant to a debt pooling, to defray costs of counseling services furnished for the benefit of its clientele of debtors generally with respect to personal money management. Any person, whether acting as agent or otherwise, who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than $100 nor more than $250 or confined in jail not less than thirty nor more than sixty days or both. Justices of the peace and other competent courts shall have concurrent jurisdiction of offenses under this section. It shall not be necessary in any warrant issued or indictment returned under this section to allege exceptions or provisos contained in this section but in the trial of an offense subject thereto it shall be the duty of the state to negative such exceptions and provisos.

WV Legislature

§61-10-24.

Repealed.

Acts, 1969 Reg. Sess., Ch. 150.

WV Legislature

§61-10-25.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-26.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-27.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-28.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-29.

Repealed.

Acts, 2010 Reg. Sess., Ch. 34.

WV Legislature

§61-10-30. Open water wells prohibited.

It shall be unlawful for any person to keep, maintain or allow any abandoned or currently used water well upon any land in which such person has any right to possession as owner, tenant or otherwise, which does not have affixed thereto a cover of sufficient strength to prevent any person from accidentally falling into such well.

WV Legislature

§61-10-31. Conspiracy; construction of section; penalties.

(a) It is unlawful for two or more persons to conspire: (1) to commit any offense against the state, or (2) to defraud the state, the state or any county board of education, or any county or municipality of the state, if, in either case, one or more of such persons does any act to effect the object of the conspiracy.

(b) Nothing in this section may be construed to supersede, limit, repeal, or affect the provisions of §3-9-8; §5-1-2; §5A-3-31; §9-7-5; §15-1E-81; §20-7-7; §60-6-16, §60A-4-414; §61-6-7, §61-6-8, §61-6-9, and §61-6-10; §61-10-34; or §62-8-1; all of this code. It is not a defense to any prosecution under this section that the conduct charged or proven is also a crime under any other provision or provisions of this code or the common law.

(c)(1) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony, or by conspiring to defraud the state, the state or any county board of education, or any county or municipality of the state, is 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 five years or by a fine of not more than $10,000, or both imprisonment and fine.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony crime of violence against the person or a felony offense where the victim was a minor child, as those terms are defined in §62-12-13 of this code, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than three years nor more than 15 years.

(3) Notwithstanding the provisions of subdivisions (1) or (2) of this subsection, any person who violates the provisions of this section by conspiring to commit an offense in violation of §61-2-14a, §61-3-1, or §61-8B-3 of this code, or an offense against the state which is punishable by life imprisonment is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in a state correctional facility for not less than five years nor more than 25 years.

(d) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a misdemeanor is guilty of a misdemeanor and, upon conviction thereof, shall be punished by confinement in jail for not more than one year or by a fine of not more than $1,000, or both confinement and fine.

WV Legislature

§61-10-32. Unlawful contact with a Division of Corrections employee or member of the Parole Board; penalty.

(a) It shall be unlawful for a former inmate of the Division of Corrections to make a telephone call to a Division of Corrections employee or member of the Parole Board when the employee has requested in writing to that former inmate that he or she not call and the former inmate has actually been served with a copy of the written request.

(b) It shall be unlawful for a former inmate of the Division of Corrections to willfully and repeatedly follow a Division of Corrections employee or member of the Parole Board with whom he or she seeks to establish a personal or social relationship when the Division of Corrections employee or member of the Parole Board has expressed to the former inmate that he or she wishes not to have contact with the former inmate.

(c) It shall be unlawful for a former inmate of the Division of Corrections to harass or make credible threats against a Division of Corrections employee or member of the Parole Board.

(d) Any offense committed under subsection (a) may be deemed to have occurred at the place at which the telephone call was made, or the place at which the telephone call was received.

(e) Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall, for a first offense, be fined not more than $500. Any person violating this section for a second offense shall be imprisoned not less than ten days nor more than six months, or both fined and imprisoned.

(f) For purposes of this section:

(1) "Harass" means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress;

(2) "Credible threat" means a threat of bodily injury made with apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat would be carried out;

(3) "Bodily injury" means substantial physical pain, illness or any impairment of physical condition;

(4) "Immediate family" means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household.

(g) Upon conviction, the court may issue an order restraining the defendant from any contact with the victim for a period not to exceed ten years. The length of any restraining order shall be based upon the seriousness of the violation before the court, the probability of future violations, and the safety of the victim or his immediate family. The duration of the

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restraining order may be longer than five years only in cases when a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(h) It is a condition of bond for any person accused of the offense described in this section that the person is to have no contact, direct or indirect, verbal or physical with the alleged victim.

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§61-10-33. Prohibition against selling a pure caffeine product.

(a) "Pure caffeine product" means a product that is comprised of ninety percent or more caffeine and is manufactured into a crystalline, liquid, or powdered form. "Pure caffeine product" does not include any of the following that contains caffeine and is formulated, manufactured, and labeled in accordance with the laws and regulations enforced by the United States Food and Drug Administration:

(1) Coffee, tea, soft drink, energy drink, or any other caffeine-containing beverage;

(2) Any energy product.

(b) Except as provided in subsection (c), no person shall knowingly possess, sell or offer for sale a pure caffeine product.

(c) Subsection (b) does not prohibit a person from possessing, selling or offering for sale any product manufactured in a unit-dose form such as a pill, tablet, or caplet, but only if each unit dose of the product contains not more than two hundred fifty milligrams of caffeine.

(d) Nothing in this section prohibits either of the following:

(1) Possession of a product described in subsection (c);

(2) Possession of a pure caffeine product by any of the following:

(A) A food processing establishment;

(B) A manufacturer of a drug that is available without a prescription;

(C) A laboratory that is licensed by the Board of Pharmacy;

(D) A laboratory of any agency or department of this state that performs testing, analysis, and other laboratory services on behalf of the state; and

(E) A postal or delivery service that transports or delivers a pure caffeine product to an entity specified in subsections (A) to (D) of this section.

(e) A person who violates subsection (b) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.

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§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; criminal penalties; and civil action.

(a) This section may be referred to as the "West Virginia Critical Infrastructure Protection Act".

(b) For purposes of this section:

"Critical Infrastructure" means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

"Critical infrastructure facility" means one of the following:

(1) A petroleum or alumina refinery;

(2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines, and associated equipment infrastructure;

(3) A chemical, polymer, or rubber manufacturing facility;

(4) A water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(5) A natural gas compressor station;

(6) A liquid natural gas terminal or storage facility;

(7) Wireline and wireless telecommunications infrastructure;

(8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;

(9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(10) A transmission facility used by a federally licensed radio or television station;

(11) A steelmaking facility that uses an electric arc furnace to make steel;

(12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;

(13) A dam that is regulated by the state or federal government;

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(14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below-or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility;

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited;

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited;

(18) Health care facilities;

(19) Any above-ground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier, or is clearly marked with signs prohibiting trespassing that are obviously designed to exclude intruders;

(20) A commercial service airport as defined by the Federal Aviation Administration;

(21) Any nuclear reactor and its associated components including, but not limited to, components related to modular or microreactors, cooling technologies, sensors, instrumentation, or storage involved in training or research opportunities;

(22) Any licensed livestock stockyard facility; any licensed livestock slaughter facility; or any commercial poultry production and processing facility; or

(23) The hardware, software, or other digital property of any critical infrastructure facility listed in this subsection.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $250 nor more than $1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with the physical or digital equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000, or confined in a jail for not more than one year, or both fined and confined.

(2) (A) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with the physical or digital equipment in a critical infrastructure facility causing damage, including damage inflicted by cyber-attack or digital interference in excess of $2,500 is guilty of a

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felony and, upon conviction thereof, shall be fined not less than $3,000 nor more than $10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(B) Any person convicted of a second offense under the provisions of this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not less than $10,000 nor more than $15,000, or imprisoned in a state correctional facility for a term of not less than two years nor more than 10 years, or both fined and imprisoned.

(3) Any person who conspires with any person to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than $250 nor more than $1,000. Any person who conspires with any person to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalization, defacing, or tampering causes damage, including damage inflicted by cyber-attack or digital interference in excess of $2,500 is guilty of a felony and, shall, upon conviction thereof, be fined not less than $3,000 nor more than $10,000.

(d)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(e) A person who buys or receives from another person, aids in concealing, transfers to a person other than the owner thereof, or possesses any stolen goods or other thing of value from a critical infrastructure facility, which he or she knows or has reason to believe has been stolen from a critical infrastructure facility, is guilty of larceny, and may be prosecuted although the principal offender has not been convicted: *Provided*, That possession of stolen goods from a critical infrastructure facility while acting at the request of law enforcement or in cooperation with law enforcement does not constitute a violation of this section. Any person convicted of an offense under this subsection, in addition the criminal penalties imposed for larceny, is liable to the critical infrastructure facility owner for compensatory damages and, in addition, for punitive damages in an amount not less than three times the amount of the compensatory damages.

(f) The provisions of §61-10-34(c)(1) of this code do not apply to any person or organization:

(1) Monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

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(2) Picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements; or

(3) Engaging in union organizing or recruitment activities, including attempting to reach workers verbally, in writing with pamphlets, and investigation of non-union working conditions, or both.

(g) The provisions of this section do not apply to:

(1) The right to free speech or assembly including, but not limited to, protesting and picketing; or

(2) A contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility.

(h)(1) All items of personal property which are used, have been used, or are intended for use in perpetration of theft or damage to infrastructure are subject to forfeiture.

(2) The items of personal property subject to forfeiture include all conveyances, including aircraft, vehicles, or vessels, except that:

(A) A conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the person owning the conveyance is a consenting party or privy to a violation of this section;

(B) A conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the person owning the conveyance knew, or had reason to know, that the conveyance was being employed or was likely to be employed in a violation of this section; and

(C) A bona fide security interest or other valid lien in any conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the holder of the security interest or lien either knew, or had reason to know, that the conveyance was being used or was likely to be used in a violation of this section.

(3) All procedures relating to the seizure and disposition of property subject to forfeiture under the authority of this section are governed by the applicable provisions of the West Virginia Contraband Forfeiture Act, §60A-7-701 *et seq*. of this code.

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