WEST VIRGINIA CODE: §61-3B-1

§61-3B-1. Definitions.

As used in this article:

(1) “Structure” means any building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.

(2) “Conveyance” means any motor vehicle, vessel, railroad car, railroad engine, trailer, aircraft or sleeping car, and “to enter a conveyance” includes taking apart any portion of the conveyance.

(3) An act is committed “in the course of committing” if it occurs in an attempt to commit the offense or in flight after the attempt or commission.

(4) “Posted land” is land that has:

(A) Signs placed not more than five hundred feet apart, along and at each corner of the boundaries of the land. The signs shall be reasonably maintained, with letters of not less than two inches in height and the words “no trespassing”. The signs shall be placed along the boundary line and at all roads, driveways and gates of entry onto the posted land so as to be clearly noticeable from outside of the boundary line; or

(B) Boundaries marked with a clearly visible purple painted marking, consisting of one vertical line no less than eight inches in length and two inches in width, and the bottom of the mark not less than three nor more than six feet from the ground or normal water surface. Such marks shall be affixed to immovable, permanent objects that are no more than one hundred feet apart and readily visible to any person approaching the property. Signs shall also be posted at all roads, driveways or gates of entry onto the posted land so as to be clearly noticeable from outside the boundary line.

(C) It is not necessary to give notice by posting on any enclosed land or place not exceeding five acres in area on which there is a dwelling house or property that by its nature and use is obviously private in order to obtain the benefits of this article pertaining to trespass on enclosed lands.

(5) “Cultivated land” is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture or trees or is fallow land as part of a crop rotation.

(6) “Fenced land” is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, other wire or other material, which stands at least three feet in height. For the purpose of this article, it shall not be necessary to fence any boundary or part of a boundary of any land which is

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formed by water and is posted with signs pursuant to the provisions of this article.

(7) Where lands are posted, cultivated or fenced as described herein, then such lands, for the purpose of this article, shall be considered as enclosed and posted.

(8) "Trespass" under this article is the willful unauthorized entry upon, in or under the property of another, but shall not include the following:

(A) Entry by the state, its political subdivisions or by the officers, agencies or instrumentalities thereof as authorized and provided by law.

(B) The exercise of rights in, under or upon property by virtue of rights-of-way or easements by a public utility or other person owning such right-of-way or easement whether by written or prescriptive right.

(C) Permissive entry, whether written or oral, and entry from a public road by the established private ways to reach a residence for the purpose of seeking permission shall not be trespass unless signs are posted prohibiting such entry.

(D) Entry performed in the exercise of a property right under ownership of an interest in, under or upon such property.

(E) Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property.

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