WEST VIRGINIA CODE: §61-3B-6

§61-3B-6. Mine trespass; penalties.

(a) A person who willfully enters an underground coal mine, whether active workings, inactive workings, or abandoned workings, without permission, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than $5,000 nor more than $10,000: *Provided*, That for any conviction pursuant to this subsection, any inactive or abandoned underground workings must be either: (1) Sealed; or (2) clearly identified by signage at some conspicuous place near the entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense.

(b) A person who willfully enters a surface coal mine, whether active workings, inactive workings, or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month and shall be fined not less than $1,000 nor more than $5,000. For a second conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be imprisoned in a correctional facility not less than one year and not more than five years and shall be fined not less than $5,000 nor more than $10,000. For a third or subsequent conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be imprisoned in a correctional facility not less than five years and not more than 10 years and shall be fined not less than $10,000 nor more than $25,000.

(c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for that person there occurs an injury that causes substantial physical pain, illness, or any impairment of physical condition to any person other than himself or herself, then that person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than one year and shall be fined not less than $1,000 nor more than $5,000: *Provided*, That the jail term shall include actual confinement of not less than seven days.

(d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for that person there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than two nor more than 10 years and shall be fined not less than $5,000 nor more than $10,000.

(e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts of such person, the death of any other person occurs, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than three

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nor more than 15 years and shall be fined not less than $10,000 nor more than $25,000.

(f) The terms "mine", "active workings", "inactive workings", and "abandoned workings" have the same meaning ascribed to them as set forth in §22A-1-2 of this code.

(g) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution, or the United States Constitution, or any statute of this state or the United States.

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