ENROLLED

House Bill No. 1034

Passed March 12, 1983

In Effect Ninety Days From Passage
AN ACT to amend article three-b, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section four, relating to the offense of trespass on student residence premises or student facility premises of an institution of higher education; defining certain terms; describing circumstances under which a person may be asked to leave a residence hall or student facility; describing the misdemeanor offense of remaining in a residence hall or student facility and establishing a penalty therefor; and prescribing a rule of construction.

Be it enacted by the Legislature of West Virginia:

That article three-b, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section four, to read as follows:

ARTICLE 3B. TRESPASS.

§61-3B-4. Trespass on student residence premises or student facility premises of an institution of higher education.

(a) For the purposes of this section:
(1) "Residence hall" means housing or a unit of housing provided primarily for students as a temporary or permanent dwelling place or abode and owned, operated, or controlled by an institution of higher education.

(2) "Student facility" means a facility owned, operated or controlled by an institution of higher education at which alcoholic liquor or nonintoxicating beer is purchased, sold or served to students enrolled at such institution, but shall not include facilities at which athletic events are regularly scheduled and an admission fee is generally charged.

(3) "Institution of higher education" means any state university, state college or state community college under the control, supervision and management of the West Virginia board of regents, or any other university, college, or any other institution of higher education in the state subject to rules and regulations for accreditation under the provisions of section thirteen-a, article twenty-six, chapter eighteen of this code.

(4) "Person authorized to have access to a residence hall or student facility, means:

(A) A student who resides or dwells in the residence hall; or

(B) An invited guest of a student who resides or dwells in the residence hall; or

(C) A parent, guardian or person who has legal custody of a student who resides or dwells in the residence hall; or

(D) An employee of the institution of higher education who is required by his employment by such institution to be in the residence hall or student facility and who is acting within the scope of his employment; or

(E) A delivery man, repairman or other such person who is not an employee of the institution of higher education but who nonetheless has a legitimate commercial reason to be in the residence hall or student facility and who is acting pursuant to such legitimate commercial reason.

(b) If a person authorized to have access to a residence hall or a student facility enters such residence hall or student fa-
cility and by his presence or acts interferes with the peaceful
or orderly operation of such residence hall or student facility
he may be asked to leave such residence hall or student facil-
ity. If a person other than a person authorized to have access
to a residence hall or student facility enters such a residence
hall or student facility, he may be asked to leave such resi-
dence hall or student facility notwithstanding the fact that he
has not interfered with the peaceful or orderly operation of
such residence hall or student facility or otherwise committed
a breach of the peace or violated any statute or ordinance.
Such request to leave may be made by the president of the
institution of higher education, an employee designated by the
president to maintain order in the residence hall or student
facility, a security officer appointed pursuant to the provisions
of section eight-a, article twenty-six, chapter eighteen of this
code, or a municipal police officer, a sheriff or deputy sheriff,
or a member of the department of public safety.

(c) It shall be unlawful for a person to remain in a residence
hall or student facility after being asked to leave as provided
for in subsection (b) of this section.

(d) Any person who violates the provisions of subsection
(c) of this section shall be guilty of a misdemeanor, and, upon
conviction thereof, shall be fined fifteen dollars. For any sec-
ond or subsequent conviction for a violation occurring within
one year after a previous violation for similar conduct, such
person shall be fined an amount not to exceed one hundred
dollars.

(e) This section shall not be construed to be in derogation
of the common law, nor shall the provisions of this section
contravene or infringe upon existing statutes related to the
same subject.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the ______ day of ____________, 1983.

Governor