WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

HOUSE BILL No. 1781

(By Mr. Shiflet and Mr. Harmon)

Passed March 4, 1983

In Effect Ninety Days From Passage
AN ACT to amend and reenact sections forty-eight and forty-eight-a, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring written permission from owner before damaging or carrying away trees, shrubbery or flowers from land of another; requiring display of the written permission at the request of a law-enforcement officer; providing criminal penalties and providing civil damages in an amount triple the value of the trees, shrubs, flowers, etc., damaged or carried away.

Be it enacted by the Legislature of West Virginia:

That sections forty-eight and forty-eight-a, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-48. Damaging or carrying away, without written permission, shrubbery, flowers, etc., growing within one hundred yards of public road or trees growing on lands of another; limitation of section; penalty.

1 (a) It is unlawful to break, cut, take or carry away, or in any manner to damage any of the shrubbery or flowers, including everything under the title of flora, whether wild or cultivated, growing within one hundred yards on either side of any public road in this state, without the permission in writing of the owner or tenant, of the land upon which the shrubbery
or flowers, including everything under the title of flora, are growing.

(b) It is unlawful for any person to enter upon the lands of premises of another without written permission of the owner of the lands or premises, in order to break, cut, take or carry away or in any manner to damage or cause to be broken, cut, taken or carried away or in any manner damaged, any trees or timber on the land.

(c) It is unlawful for any person willfully or knowingly to have in his possession, or to haul along any public road in this state, any trees, shrubbery or flowers, including everything under the title of flora, which are protected by this section, unless the person so having in his possession or hauling the trees, shrubbery or flowers, and any other plant, has permission in writing so to do from the owner or tenant of the land from which they have been taken.

(d) At the request of a law-enforcement officer, a person on the lands or premises of another engaged in any act specified in subsections (a), (b) and (c) of this section shall display the written permission of the owner.

(e) Notwithstanding the provisions of this section, the following shall obtain the permission of an owner before engaging in any act specified in subsection (a) or (b) of this section, but are not required to obtain the permission in writing or to display the written permission as provided in subsection (d) of this section:

(A) An employee of a public utility as defined in section two, article one, chapter twenty-four of this code, which obtained such permission when acquiring a right-of-way upon such premises; or

(B) An employee of the department of highways or of a county or municipality performing roadside maintenance.

(f) Any person who violates the provisions of subsection (a) or (c) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, for the first offense shall be fined not more than fifty dollars, and for subsequent offenses shall
be confined in the county jail for not more than three months, or fined not more than fifty dollars, or both, for each offense. Magistrates shall have concurrent jurisdiction with circuit courts for offenses under this section.

(g) Any person who violates the provision of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, for the first offense shall be fined not less than fifty dollars, and for subsequent offenses shall be confined in the county jail for not less than three months or fined not less than fifty dollars or both for each offense.

§61-3-48a. Cutting, damaging or carrying away without written permission, timber, trees, growing plants or the products thereof; treble damages provided.

Any person who enters upon the land or premises of another without written permission from the owner of the lands or premises in order to cut, damage or carry away or cause to be cut, damaged or carried away, any timber, trees, logs, posts, fruit, nuts, growing plant or product of any growing plant, shall be liable to the owner in the amount of three times the value of the timber, trees, growing plants or products thereof, which shall be in addition to and notwithstanding any other penalties by law provided.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originating in the House.
Takes effect ninety days from passage.

Joseph C. Wilko
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Walter B. McHarg
President of the Senate

Michael E. Lee Jr.
Speaker House of Delegates

The within is approved this the 16th day of March, 1983.

Jarl M. Chenoweth
Governor