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Date 3-16-83

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 1781

(By Mr. Shiflet + Mr. Harmon)



Passed March 4, 1983

In Effect Ninety Days From Passage



ENROLLED

H. B. 1781

(By MR. SHIFLET and MR. HARMAN)

[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
- 2 in any manner to damage any of the shrubbery or flowers,
- 3 including everything under the title of flora, whether wild or
- 4 cultivated, growing within one hundred yards on either side of
- 5 any public road in this state, without the permission in writing
- 6 of the owner or tenant, of the land upon which the shrubbery

7 or flowers, including everything under the title of flora, are
8 growing.

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

15 (c) It is unlawful for any person willfully or knowingly to
16 have in his possession, or to haul along any public road in
17 this state, any trees, shrubbery or flowers, including every-
18 thing under the title of flora, which are protected by this
19 section, unless the person so having in his possession or hauling
20 the trees, shrubbery or flowers, and any other plant, has per-
21 mission in writing so to do from the owner or tenant of the
22 land from which they have been taken.

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

27 (e) Notwithstanding the provisions of this section, the fol-
28 lowing shall obtain the permission of an owner before en-
29 gaging in any act specified in subsection (a) or (b) of this
30 section, but are not required to obtain the permission in
31 writing or to display the written permission as provided in
32 subsection (d) of this section:

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

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

39 (f) Any person who violates the provisions of subsection
40 (a) or (c) of this section shall be guilty of a misdemeanor,
41 and, upon conviction thereof, for the first offense shall be fined
42 not more than fifty dollars, and for subsequent offenses shall

43 be confined in the county jail for not more than three months,
44 or fined not more than fifty dollars, or both, for each offense.
45 Magistrates shall have concurrent jurisdiction with circuit
46 courts for offenses under this section.

47 (g) Any person who violates the provision of subsection
48 (b) of this section shall be guilty of a misdemeanor, and,
49 upon conviction thereof, for the first offense shall be fined
50 not less than fifty dollars, and for subsequent offenses shall
51 be confined in the county jail for not less than three months
52 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 pro-
ducts thereof; treble damages provided.**

1 Any person who enters upon the land or premises of an-
2 other without written permission from the owner of the
3 lands or premises in order to cut, damage or carry away or
4 cause to be cut, damaged or carried away, any timber, trees,
5 logs, posts, fruit, nuts, growing plant or product of any grow-
6 ing plant, shall be liable to the owner in the amount of three
7 times the value of the timber, trees, growing plants or products
8 thereof, which shall be in addition to and notwithstanding
9 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

Arnold Qualls
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

Donald L. Stapp
Clerk of the House of Delegates

Walter S. McRae
President of the Senate

W. H. Lee, Jr.
Speaker House of Delegates

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

Julius R. Royster, Jr.
Governor

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SECY. OF STATE