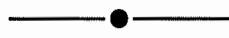


HB 3034

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WEST VIRGINIA LEGISLATURE

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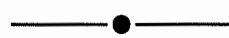
FIRST REGULAR SESSION, 1999



# ENROLLED

## House Bill No. 3034

(By Delegates Hines, L. White, Mahan,  
Wills, Coleman, Amores and Capito)



Passed March 13, 1999

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK  
LEGISLATIVE DEPARTMENT

## ENROLLED

# H. B. 3034

(BY DELEGATES HINES, L. WHITE, MAHAN,  
WILLS, COLEMAN, AMORES AND CAPITO)

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[Passed March 13, 1999; in effect ninety days from passage.]

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AN ACT to amend and reenact section fifty-two, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the offense of wrongful injury to timber; and making the first violation a misdemeanor; second and subsequent violations deemed a felony; and penalties.

*Be it enacted by the Legislature of West Virginia:*

That section fifty-two, 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.**

#### **§61-3-52. Wrongful injuries to timber; criminal penalties.**

- 1 (a) Any person who willfully and maliciously and with
- 2 intent to do harm unlawfully enters upon the lands of another,
- 3 cuts down, injures, removes or destroys any timber, without the
- 4 permission of the owner or his or her representative is guilty of
- 5 a misdemeanor and, upon conviction thereof, shall be fined not
- 6 more than three times the value of timber injured, removed or
- 7 destroyed, or confined in the county or regional jail for thirty

8 days, or both: *Provided*, That if the timber is valued at one  
9 thousand dollars or less, the fine shall be no more than one  
10 thousand dollars: *Provided, however*, That a person convicted  
11 of a second or subsequent violation of the provisions of this  
12 section shall be guilty of a felony and, upon conviction thereof  
13 shall be confined in a correctional facility for not less than one  
14 nor more than three years, or fined not more than three times  
15 the value of the timber injured, removed or destroyed, or both  
16 fined and confined.

17 (b) The necessary trimming and removal of timber to  
18 permit the construction, repair, maintenance, cleanup and  
19 operations of pipelines and utility lines and appurtenances of  
20 public utilities, public service corporations and to aid registered  
21 land surveyors and professional engineers in the performance  
22 of their professional services, and municipalities, and pipeline  
23 companies, or lawful operators and product purchasers of  
24 natural resources other than timber shall not be deemed a  
25 willful and intentional cutting down, injuring, removing or  
26 destroying of timber.

27 (c) The necessary trimming and removal of timber for  
28 boundary line maintenance, for the construction, maintenance  
29 and repair of streets, roads and highways or for the control and  
30 regulation of traffic thereon by the state and its political  
31 subdivisions or registered land surveyors and professional  
32 engineers shall not be deemed a willful and intentional cutting  
33 down, injuring, removing or destroying of timber.

34 (d) No fine or imprisonment imposed pursuant to this  
35 section shall be construed to limit any cause of action by a  
36 landowner for recovery of damages otherwise allowed by law.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Ruby Schomover*  
Chairman Senate Committee

*John Smith*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harold E. Thomas*  
Clerk of the Senate

*Gregory W. Bay*  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
President of the Senate

*[Signature]*  
Speaker of the House of Delegates

The within *approved* this the *2nd*  
day of *April*, 1999.

*[Signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 3:55 pm