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HB 3213

HB

FILED

2006 MAR 31 P 4: 21

OFFICE WEST VIRGINIA  
CLERK OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 3213**

(By Delegates Delong, Craig, Amores)



Passed March 11, 2006

In Effect Ninety Days from Passage

FILED

2006 MAR 31 P 4: 21

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

**H. B. 3213**

(BY DELEGATES DELONG, CRAIG, AMORES)

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[Passed March 11, 2006; in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-16a, relating to creating crimes against common carriers and providing penalties.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-2-16a, to read as follows:

**ARTICLE 2. CRIMES AGAINST THE PERSON.**

**§61-2-16a. Malicious assault; unlawful assault; battery and recidivism of battery; assault on a driver, conductor, motorman, captain, pilot or other person in charge of any vehicle used for public conveyance.**

1       (a) *Malicious assault.* — Any person who maliciously  
2 shoots, stabs, cuts or wounds or by any means causes bodily  
3 injury with intent to maim, disfigure, disable or kill any driver,  
4 conductor, motorman, captain or other person in charge of any  
5 vehicle or boat, driven by steam, electricity, gasoline or other  
6 motive power and used for public conveyance acting in his or  
7 her official capacity and the person committing the malicious  
8 assault knows or has reason to know that the victim is a driver,  
9 conductor, motorman, captain or other person in charge of any  
10 vehicle or boat used as a public conveyance, acting in his or her  
11 official capacity, is guilty of a felony and, upon conviction  
12 thereof, shall be confined in a correctional facility for not less  
13 than three nor more than fifteen years.

14       (b) *Unlawful assault.* — Any person who unlawfully but  
15 not maliciously shoots, stabs, cuts or wounds or by any means  
16 causes any driver, conductor, motorman, captain or other  
17 person in charge of any vehicle, aircraft or boat, driven by  
18 steam, electricity, gasoline or other motive power and used for  
19 public conveyance acting in his or her official capacity, bodily  
20 injury with intent to maim, disfigure, disable or kill him or her  
21 and the person committing the unlawful assault knows or has  
22 reason to know that the victim is a driver, conductor, motor-  
23 man, captain or other person in charge of any vehicle or boat  
24 used as a public conveyance, acting in his or her official  
25 capacity, is guilty of a felony and, upon conviction thereof,  
26 shall be confined in a correctional facility for not less than two  
27 nor more than five years.

28       (c) *Battery.* — Any person who unlawfully, knowingly and  
29 intentionally makes physical contact of an insulting or provok-  
30 ing nature with a driver, conductor, motorman, captain or other  
31 person in charge of any vehicle or boat, driven by steam,  
32 electricity, gasoline or other motive power and used for public  
33 conveyance, acting in his or her official capacity, or unlawfully  
34 and intentionally causes physical harm to a driver, conductor,  
35 motorman, captain or other person in charge of any vehicle or  
36 boat, driven by steam, electricity, gasoline or other motive  
37 power and used for public conveyance, in such capacity, and  
38 the person committing the battery knows or has reason to know  
39 that the victim is a driver, conductor, motorman, captain or

40 other person in charge of any vehicle or boat used as a public  
41 conveyance, acting in his or her official capacity is guilty of a  
42 misdemeanor and, upon conviction thereof, shall be confined in  
43 the county or regional jail for not less than one month nor more  
44 than twelve months, fined the sum of five hundred dollars, or  
45 both. If any person commits a second such offense, he or she is  
46 guilty of a felony and, upon conviction thereof, shall be  
47 confined in a correctional facility for not less than one year nor  
48 more than three years or fined the sum of one thousand dollars  
49 or both fined and confined. Any person who commits a third  
50 violation of this subsection is guilty of a felony and, upon  
51 conviction thereof, shall be confined in a correctional facility  
52 not less than two years nor more than five years or fined not  
53 more than two thousand dollars or both fined and confined.

54 (d) *Assault.* — Any person who unlawfully attempts to  
55 commit a violent injury to the person of a driver, conductor,  
56 motorman, captain or other person in charge of any vehicle or  
57 boat, driven by steam, electricity, gasoline or other motive  
58 power and used for public conveyance, acting in his or her  
59 official capacity, or unlawfully commits an act which places a  
60 driver, conductor, motorman, captain or other person in charge  
61 of any vehicle or boat, driven by steam, electricity, gasoline or  
62 other motive power and used for public conveyance, acting in  
63 his or her official capacity, in reasonable apprehension of  
64 immediately receiving a violent injury, and the person commit-  
65 ting the assault knows or has reason to know that the victim is  
66 a driver, conductor, motorman, captain or other person in  
67 charge of any vehicle or boat used as a public conveyance,  
68 acting in his or her official capacity is guilty of a misdemeanor  
69 and, upon conviction thereof, shall be confined in the county or  
70 regional jail for not less than twenty-four hours nor more than  
71 six months, fined not more than two hundred dollars, or both  
72 fined and confined.

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

  
Chairman Senate Committee

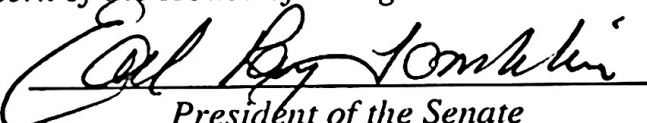
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

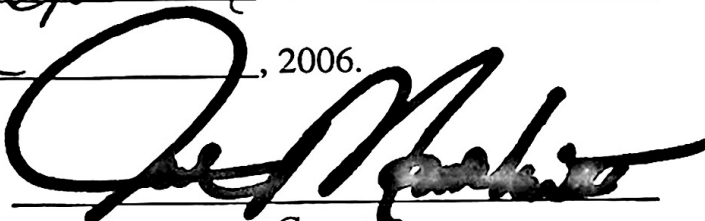
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup>  
day of March, 2006.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 29 2006

Time 4:05 pm