House Bill No. 2627

(By Delegate(s) McCuskey, R. Phillips, R. Smith, J. Nelson, Stansbury, McGeehan, Eldridge, Arvon, H. White, Marcum and Butler)

Passed March 14, 2015

In effect ninety days from passage.
AN ACT to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting damage to property of railroads, public utilities and certain production storage and distribution facilities; adding waste management facilities, storage facilities and timber operations to the protected parties; prohibiting destruction, damage or removal of property resulting in impairment to the normal, safe operation of those facilities; providing criminal penalties; and clarifying persons convicted of section are subject to restitution.

Be it enacted by the Legislature of West Virginia:

That §61-3-29 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-29. Damage or destruction of railroad or public utility company property, or real or personal property used for producing, generating, transmitting, distributing, treating or collecting electricity, natural gas, coal, water, wastewater, stormwater, telecommunications or cable service; penalties; restitution.

(a) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, public utility company, solid waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,000, or confined in jail not more than one year, or both.

(b) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, public utility company, solid waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or personal property used for producing, generating, transmitting, distributing, treating, storing, or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service; and thereby creates a substantial risk of serious bodily injury to another or results in the interruption of service to the public is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or confined in a state correctional facility not less than one nor more than three years, or both.
(c) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, public utility company, solid waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this code, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service; and (2) causes serious bodily injury to another is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $50,000, or confined in a state correctional facility not less than one nor more than five years, or both.

(d) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, public utility company, solid waste facility or collection equipment as defined in section two, article fifteen, chapter twenty-two of this code or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service; and thereby hinders, impairs or disrupts, directly or indirectly the normal operation of any equipment, device, system or service put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $10,000.

(e) Any person convicted of subsection (a), (b), (c) or (d) of this section shall be subject to the provisions of article eleven-a of this chapter.

(f) Nothing in this section limits or restricts the ability of an entity referred to in subsection (a), (b), (c) or (d) of this section
or a property owner or other person who has been damaged or
injured as a result of a violation of this section from seeking
recovery for damages arising from violation of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 18th day of April, 2015.

Governor