IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

Count \_\_ of the indictment charges the defendant with Setting Fire on Lands.

Setting Fire on Lands occurs when a person willfully, unlawfully, and maliciously sets fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands. An accidental burning is not a violation of this statute.

The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt; the defendant is not required to prove [himself] [herself] innocent—[he] [she] is presumed by the law to be innocent of this charge and this presumption remains with the defendant throughout this trial. To prove the defendant guilty of Setting Fire on Lands, the State must overcome the presumption that the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia,

4. willfully, unlawfully, and maliciously

5. set fire to woods, fence, grass, straw, or [insert other material]

6. capable of spreading fire on lands

If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged in Count \_\_ of the indictment. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE