

COMMITTEE SUBSTITUTE

FOR

**H. B. 2532**

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(BY DELEGATES STAGGERS, L. PHILLIPS, HALL, MARTIN,  
PERRY, MOORE, MORGAN, MAHAN, MOYE, PINO AND WILLIAMS)

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(Originating in the Committee on the Judiciary)  
[February 25, 2011]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-15-1, §21-15-2, §21-15-3, §21-15-4, §21-15-5, §21-15-6, §21-15-7, §21-15-8, §21-15-9, §21-15-10, §21-15-11 and §21-15-12, all relating to zipline regulation; authorizing the Division of Labor to regulate ziplines; authorizing the Division of Labor to propose rules for Legislative approval; requiring permits and inspections; authorizing the Division of Labor to charge inspection and permit fees; authorizing the Division of Labor to hire or

contract with inspectors; requiring notice of serious physical injury or fatality; requiring investigations of serious physical injuries or fatalities; providing for service of process; authorizing the temporary cessation of operations; insurance or bond requirements; and regulation of ziplines by cities and counties.

*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 article, designated §21-15-1, §21-15-2, §21-15-3, §21-15-4, §21-15-5, §21-15-6, §21-15-7, §21-15-8, §21-15-9, §21-15-10, §21-15-11 and §21-15-12, to read as follows:

**ARTICLE 15. COMMERCIAL ZIPLINE SAFETY ACT**

**§21-15-1. Short title**

- 1        This article shall be known and may be cited as the
- 2        “Commercial Zipline Safety Act.”

**§21-15-2. Definitions**

- 1        As used in this article:
- 2        (1) “Division” means the West Virginia Division of
- 3        Labor.

4 (2) “Employee” means an officer, agent, employee,  
5 servant, or volunteer, whether compensated or not, whether  
6 full time or not, who is authorized to act and is acting within  
7 the scope of his or her employment or duties with the zipline  
8 operator.

9 (3) “Operator” means any person, partnership,  
10 corporation or other commercial entity and their agents,  
11 officers, employees or representatives, who has operational  
12 responsibility for any zipline.

13 (4) “Participant” means any person engaging in the use  
14 of a zipline operated by a zipline operator.

15 (5) “Zipline” means a commercial recreational activity  
16 where participants, by the use of a cable or rope line  
17 suspended between support structures, enables a participant  
18 attached to a pulley to traverse from one point to another, for  
19 the purpose of giving the participants amusement, pleasure,  
20 thrills or excitement .

**§21-15-3. Rules.**

1 The division shall promulgate rules for the safe  
2 installation, repair, maintenance, use, operation and

3 inspection of all ziplines. The rules shall be in addition to  
4 any existing applicable safety orders and shall be concerned  
5 with the installation, repair, maintenance, use, operation and  
6 inspection of ziplines. The rules shall be promulgated and  
7 designed for the purpose of developing ziplines as a  
8 recreational activity and additional tourist attraction in West  
9 Virginia. All rules shall be promulgated in accordance with  
10 the provisions of article three, chapter twenty-nine-a of this  
11 code.

**§21-15-4. Inspection and permit fees.**

1 The division shall determine a schedule of inspection and  
2 permit fees, which fees may not exceed one hundred dollars  
3 per zipline site per year. All fees received shall be deposited  
4 in the general revenue fund. No fees may be charged to  
5 public agencies.

**§21-15-5. Inspectors.**

1 The division may hire or contract with inspectors to  
2 inspect zipline sites.

**§21-15-6. Permits; application; annual inspection.**

1 (a) An operator or owner may not knowingly permit the  
2 operation of a zipline without a permit issued by the division.

3 (b) Ziplines will be inspected at intervals to be  
4 determined by the division, but in no event, shall a zipline be  
5 inspected less frequently than once every six months.

**§21-15-7. Issuance of permit; certificate of inspection;**  
**availability to public.**

1 If, after inspection, a zipline, is found to comply with the  
2 rules of the division, the division shall issue a permit to  
3 operate. The permit shall be in the form of a certificate of  
4 inspection and shall be kept in the records of any operator or  
5 owner for a three-year period and shall be readily accessible  
6 to the public for inspection at any reasonable time at the  
7 zipline location. A copy of certificate, showing the last date  
8 of inspection, shall be affixed to the zipline upon issuance, or  
9 at any other location designated by the commissioner of the  
10 division.

**§21-15-8. Notice of serious physical injury or fatality;**  
**investigations; records available to public.**

1 An owner or operator of a zipline shall notify the division  
2 not later than twenty-four hours after any fatality or accident

3 occurring as a result of the operation of the zipline that  
4 results in a serious physical injury requiring medical  
5 treatment or results in a loss of consciousness. Notice to the  
6 division may be oral or written, but this notice requirement in  
7 no way limits the an operators responsibility to notify  
8 emergency or law enforcement personnel of the incident as  
9 soon as is reasonably practicable. The division shall  
10 investigate each fatality or accident and any safety related  
11 complaint involving a zipline in this state about which the  
12 division receives notice. Every owner or operator of a zipline  
13 shall keep a record of each accident or fatality and the record  
14 shall be kept with the certificate of inspection required by this  
15 article and shall be readily accessible to the public for  
16 inspection at any reasonable time at the zipline or where the  
17 zipline is located.

**§21-15-9. Service of process.**

1 Any person, firm or corporation operating a zipline may  
2 be served with civil process in the same manner as if the  
3 owner or operator was a domestic or foreign corporation.

**§21-15-10. Temporary cessation of the operation of a zipline determined to be unsafe.**

1        The division may order, in writing, a temporary cessation  
2        of operation of a zipline if it has been determined after  
3        inspection to be hazardous or unsafe. Operation may not  
4        resume until the conditions are corrected to the satisfaction of  
5        the division.

**§21-15-11. Insurance; bond.**

1        No person may operate a zipline unless at the time there  
2        is in existence (a) a policy of insurance approved by the  
3        division and obtained from an insurer authorized to do  
4        business in this state in an amount of not less than \$1,000,000  
5        per person, \$1,000,000 per occurrence and \$50,000 for  
6        property damage with coverage extending to any employee  
7        of the operator in the course of their duties as an employee,  
8        or (b) a bond in a like amount, as approved by the division:  
9        *Provided, That the aggregate liability of the surety under any*  
10       bond may not exceed the face amount thereof, or (c) cash or  
11       other security acceptable to the division. Satisfactory

- 12 evidence of insurance, bond or other security shall  
13 accompany the permit application.

**§21-15-12. Regulation of ziplines by cities and counties.**

- 1 Nothing contained in this article prevents cities and  
2 counties from regulating ziplines with regard to any aspect  
3 not relating to installation, repair, maintenance, use,  
4 operation and inspection of the zipline.