

1 **H. B. 4477**

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3 (By Delegates Staggers, Perry, Barker and Shaver)

4 [Introduced February 9, 2012; referred to the

5 Committee on Energy, Industry and Labor, Economic Development and
6 Small Business then the Judiciary.]

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10 A BILL to amend and reenact §21-15-3, §21-15-7, §21-15-8 and §21-
11 15-9 of the Code of West Virginia, 1931, as amended, all
12 relating to the zipline and canopy tour responsibility act;
13 and providing that the inspecting of canopy tours is to be
14 performed by special inspectors rather than by the Division of
15 Labor.

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

17 That §21-15-3, §21-15-7, §21-15-8 and §21-15-9 of the Code of
18 West Virginia, 1931, as amended, be amended and reenacted, all to
19 read as follows:

20 **ARTICLE 15. ZIPLINE AND CANOPY TOUR RESPONSIBILITY ACT.**

21 **§21-15-3. Duties of a zipline or canopy tour operators.**

22 Every operator shall:

23 (1) Construct, install, maintain and operate all ziplines and

1 canopy tours in accordance with ACCT challenge course standards or
2 substantially equivalent standards;

3 (2) Ensure that ziplines and canopy tours are inspected at
4 least annually by ~~the Division~~ or a special inspector;

5 (3) Train employees operating ziplines and canopy tours in
6 accordance with national standards associated with their
7 profession;

8 (4) Procure and maintain commercial general liability
9 insurance against claims for personal injury, death and property
10 damages occurring upon, in or about the zipline or canopy tour
11 which affords protection to the limit of not less than \$1 million
12 for injury or death of a single person, to the limit of \$2 million
13 in the aggregate, and to the limit of not less than \$50,000 for
14 property damage; and

15 (5) Maintain records for a period of at least three years from
16 the date of the creation of the record of:

17 (A) Proof of insurance;

18 (B) Inspection reports;

19 (C) Maintenance records; and

20 (D) Participant acknowledgment of risks and duties.

21 **~~§21-15-7. Inspection and Permit fees.~~**

22 (a) The division shall charge ~~inspection and permit fees.~~ The
23 an annual permit fee ~~is~~ of \$100 for each zipline or canopy tour.

24 ~~(1) The annual inspection fee, if an inspection is to be done~~

1 ~~by the Division, is \$100.00 for each zipline or canopy tour.~~

2 ~~(2) The annual inspection fee, if an inspection is to be done~~
3 ~~by the Division, is due at the time of application for the annual~~
4 ~~permit.~~

5 ~~(3) The Division shall waive the inspection fee for a zipline~~
6 ~~or canopy tour whose operator provides proof of nonprofit business~~
7 ~~status or for any zipline or canopy tour whose operator provides~~
8 ~~proof that an inspection has been completed within the last year by~~
9 ~~a certified special inspector as provided in section nine of this~~
10 ~~article.~~

11 ~~(b) The Division may charge additional inspection fees equal~~
12 ~~to the annual inspection fee for additional inspections required as~~
13 ~~the result of the condemnation of a device for safety standards~~
14 ~~violations and for inspections required as a result of accidents~~
15 ~~involving serious or fatal injury. If any operator requires an~~
16 ~~inspection as the result of a violation of the permitting~~
17 ~~requirements of section nine of this article, the Division shall~~
18 ~~charge the operator \$75.00 per hour in addition to the established~~
19 ~~inspection fee, including travel time.~~

20 ~~(c) (b) All fees received shall be deposited in a special~~
21 ~~revenue account in the State Treasury known as the "Amusement Rides~~
22 ~~and Amusement Attractions Safety Fund". The division may use~~
23 ~~moneys from the fund for the purpose of enforcement of the~~
24 ~~provisions of this article. Expenditures are not authorized from~~

1 collections, but are to be made only in accordance with
2 appropriation by the Legislature and in accordance with the
3 provisions of article three, chapter twelve of this code and upon
4 fulfillment of the provisions of article two, chapter eleven-b of
5 this code.

6 ~~(d) No inspection fee may be charged public agencies.~~

7 **§21-15-8. Inspectors.**

8 (a) ~~The Division may hire or contract with inspectors to~~
9 ~~inspect zipline or canopy tours.~~ The division is responsible for
10 oversight and review of the activities of special inspectors and
11 may hire or contract with inspectors to review the activities of
12 special inspectors.

13 (b) The division shall certify all special inspectors. The
14 division may suspend or revoke any certification of a special
15 inspector upon a showing of good cause. The division shall propose
16 rules for legislative approval in accordance with the provisions of
17 article three, chapter twenty-nine-a of this code providing an
18 application process and minimum qualifications for certification of
19 special inspectors. The division may charge an annual certification
20 fee not to exceed \$50.

21 **§21-15-9. Permits; application; annual inspection.**

22 (a) No operator may knowingly permit the operation of a
23 zipline or canopy tour without a permit issued by the division.

24 (b) Each year and at least fifteen days before the first time

1 the zipline or canopy tour is made available in this state for
2 public use, an operator shall apply for a permit to the division on
3 a form furnished by the division and containing any information the
4 division may require.

5 ~~(c) The Division shall, upon application and within ten days~~
6 ~~of the first time the zipline or canopy tour is made available in~~
7 ~~this state for public use, inspect the zipline or canopy tour.~~

8 ~~(d) The Division shall inspect all zipline or canopy tours at~~
9 ~~least once every year.~~

10 ~~(e)~~ (c) The division may conduct inspections at any reasonable
11 time without prior notice: *Provided*, That in lieu of performing
12 its own inspection, the division ~~shall~~ may accept inspection
13 reports from special inspectors certified by the division.

NOTE: The purpose of this bill is to clarify that inspections of ziplines and canopy tours are to be performed by special inspectors rather than by the Division of Labor.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.