

Senate Bill No. 136

(By Senators Plymale and Beach)

[Introduced January 14, 2015; referred to the Committee on the Judiciary.]

9 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
10 designated §7-11-5a; to amend said code by adding thereto a new section, designated
11 §8-21-10a; to amend and reenact §19-25-3 of said code; and to amend said code by adding
12 thereto a new section, designated §20-5-3a, all relating to limiting liability of the section of
13 Parks and Recreation of the Division of Natural Resources, county parks and recreation
14 commissions, boards of parks and recreation commissioners, any officer or agent of a
15 nonprofit state park of forest foundation and owners of land used for public parks and
16 recreation purposes under an agreement with any of the foregoing entities.

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

18 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
19 section, designated §7-11-5a; that said code be amended by adding thereto a new section, designated
20 §8-21-10a; that §19-25-3 of said code be amended and reenacted; and that said code be amended by
21 adding thereto a new section, designated §20-5-3a, all to read as follows:

1 **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

2 **ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.**

3 **§7-11-5a. Liability of county parks and recreation commissions.**

4 (a) A commission is not liable for any injury, loss or damage caused intentionally or by the
5 negligence of any person who is not an agent or employee of the commission.

6 (b) A commission is not liable for any injury, loss or damage to any person unless the injury,
7 loss or damage was directly caused by an agent or employee of the commission and the injury, loss
8 or damage occurs within the public parks and recreational properties and facilities owned by the
9 county or commission.

10 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

11 **ARTICLE 21. BOARD OF PARK AND RECREATION COMMISSIONERS.**

12 **§8-21-10a. Liability of board.**

13 (a) A board is not liable for any injury, loss or damage caused intentionally or by the
14 negligence of any person who is not an agent or employee of the board.

15 (b) A board is not liable for any injury, loss or damage to any person unless the injury, loss
16 or damage was directly caused by an agent or employee of the board and the injury, loss or damage
17 occurs within the city public parks and recreational properties and facilities owned by the board.

18 **CHAPTER 19. AGRICULTURE.**

19 **ARTICLE 25. LIMITING LIABILITY OF LANDOWNERS.**

20 **§19-25-3. Limiting duty of landowner who grants a lease, easement or license of land to**
21 **federal, state, county or municipal government or any agency thereof.**

1 Unless otherwise agreed in writing, an owner, with or without remuneration, who grants a
2 lease, easement or license of land to the federal government or any agency thereof, or the state or any
3 agency thereof, or any county or municipality or agency thereof, for military, law-enforcement or
4 homeland-defense training or recreational or wildlife propagation purposes owes no duty of care to
5 keep that land safe for entry or use by others or to give warning to persons entering or going upon
6 the land of any dangerous or hazardous conditions, uses, structures or activities thereon. An owner
7 who, with or without remuneration, grants a lease, easement or license of land to the federal
8 government or any agency thereof, or the state or any agency thereof, or any county or municipality
9 or agency thereof, for military, law-enforcement or homeland-defense training or recreational or
10 wildlife propagation purposes does not by giving a lease, easement or license: (a) Extend any
11 assurance to any person using the land that the premises are safe for any purpose; or (b) confer upon
12 those persons the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume
13 responsibility for or incur liability for any injury to person or property caused by an act or omission
14 of a person who enters upon the leased land. The provisions of this section apply whether the person
15 entering upon the leased land is an invitee, licensee, trespasser or otherwise: Provided, That
16 equestrians who are using the land but who are not engaged in a commercial profit-making venture
17 are exempt from the provisions of subsection (d), section five, article four, chapter twenty of this
18 code.

19 **CHAPTER 20. NATURAL RESOURCES.**

20 **ARTICLE 5. PARKS AND RECREATION.**

21 **§20-5-3a. Liability of section of parks and recreation.**

1 (a) The section of Parks and Recreation is not liable for any injury, loss or damage caused
2 intentionally or by the negligence of any person who is not an agent or employee of the section of
3 parks and recreation.

4 (b) The section of Parks and Recreation as well as any officer or agent of any legally
5 constituted 26 U. S. C. (c)(3) nonprofit state park or forest foundation is not liable for any injury, loss
6 or damage to any person unless the injury, loss or damage was directly caused by an agent or
7 employee of the section of Parks and Recreation as well as any officer or agent of any legally
8 constituted 26 U. S. C. (c)(3) nonprofit state park or forest foundation and the injury, loss or damage
9 occurs within the state parks and public recreational properties and facilities owned by the section
10 of parks and recreation or the Division of Natural Resources.

NOTE: The purpose of this bill is to limit the liability of the section of Parks and Recreation of the Division of Natural Resources, county parks and recreation commissions, boards of park and recreation commissioners and owners of land used for public parks and recreation purposes under an agreement with any of the foregoing entities.

§7-11-5a, §8-21-10a and §20-5-3a are new; therefore, strike-throughs and underscoring have been omitted.

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