

SB13 CC #1 2-13

Passage

O'Neill 7888

Delegate Shott, from the committee of conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for Senate Bill No. 13, Restoring the open and obvious doctrine of premises liability.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill No. 13 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House on page two, section seven, line seven.

That both houses agree to an amendment as follows:

On pages two and three, section seven, by striking out all of subsection (c) and agreeing to the same as follows:

(c) It is the intent and policy of the Legislature that this section reinstates and codifies the open and obvious hazard doctrine in actions seeking to assert liability against an owner, lessee or other lawful occupant of real property to its status prior to the decision of the West Virginia Supreme Court of Appeals in the matter of *Hersh v. E-T Enterprises, Limited Partnership*, 232 W. Va. 305 (2013). In its application of the doctrine, the court as a matter of law shall appropriately apply the doctrine considering the nature and severity, or lack thereof, of violations of any statute relating to

a cause of action.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title as follows:

Eng. Com. Sub. for Senate Bill No. 13– A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to the liability of a possessor of real property for injuries caused by open and obvious hazards; reinstating and codifying the open and obvious doctrine of common law as it existed prior to judicial abolition; clarifying that this section does not create, recognize or ratify claim or cause of action; stating legislative intent; and providing for judicial application.

Respectfully submitted,

Senator Charles S. Trump, IV,
Chair,

Delegate John H. Shott,
Chair,

Senator Mitch Carmichael

Delegate Roger Hanshaw

Senator Corey Palumbo
*Conferees on the part of
the House of Delegates*

Delegate Larry Rowe
*Conferees on the part of
the Senate*