

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 13

(SENATORS NOHE, BOLEY, FERNS, D. HALL, KARNES, MAYNARD,
MULLINS, SYPOLT, TRUMP, BLAIR, WILLIAMS AND
COLE (MR. PRESIDENT), *ORIGINAL SPONSORS*)

[PASSED FEBRUARY 18, 2015; IN EFFECT FROM PASSAGE.]

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MULLINS, SYPOLT, TRUMP, BLAIR, WILLIAMS AND
COLE (MR. PRESIDENT), *ORIGINAL SPONSORS*)

[Passed February 18, 2015; in effect from passage.]

AN ACT 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.

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 section, designated §55-7-27, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-27. Limiting civil liability of a possessor of real property for injuries caused by open and obvious hazards.

1 (a) A possessor of real property, including an owner,
2 lessee or other lawful occupant, owes no duty of care to
3 protect others against dangers that are open, obvious,
4 reasonably apparent or as well known to the person injured
5 as they are to the owner or occupant, and shall not be held
6 liable for civil damages for any injuries sustained as a result
7 of such dangers.

8 (b) Nothing in this section creates, recognizes or ratifies
9 a claim or cause of action of any kind.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the

Day of, 2015.

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Governor