

1 **Senate Bill No. 338**

2 (By Senators Palumbo, Beach, Kirkendoll, Tucker, Williams, Nohe  
3 and McCabe)

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5 [Introduced February 21, 2013; referred to the Committee on the  
6 Judiciary.]  
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §55-7-27, relating to  
12 the liability of a possessor of real property for harm to a  
13 trespasser.

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

15 That the Code of West Virginia, 1931, as amended, be amended  
16 by adding thereto a new section, designated §55-7-27, to read as  
17 follows:

18 **ARTICLE 7. ACTIONS FOR INJURIES.**

19 **§55-7-27. Liability of possessor of real property for harm to a**  
20 **trespasser.**

21 (a) A possessor of real property, including an owner, lessee  
22 or other lawful occupant, owes no duty of care to a trespasser  
23 except in those circumstances where a common law right-of-action

1 existed as of the effective date of this section, including the  
2 duty to refrain from willfully or wantonly causing the trespasser  
3 injury.

4 (b) A possessor of real property may use justifiable force to  
5 repel a criminal trespasser as provided by section twenty-two of  
6 this article.

7 (c) This section does not increase the liability of any  
8 possessor of real property and does not affect any immunities from  
9 or defenses to liability established by another section of this  
10 code or available at common law to which a possessor of real  
11 property may be entitled.

12 (d) The Legislature intends to codify and preserve the common  
13 law in West Virginia on the duties owed to trespassers by  
14 possessors of real property as of the effective date of this  
15 section.

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(NOTE: The purpose of this bill is to codify existing common  
law in West Virginia as it relates to the duty of care possessors  
of property owe trespassers.

This section is new; therefore, strike-throughs and  
underscoring have been omitted.

This bill was recommended for introduction and passage during  
the Regular Session of the Legislature by the Joint Judiciary  
Committee.)