

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 211

BY SENATORS TRUMP, BLAIR AND MARONEY

[Introduced February 9, 2017; referred
to the Committee on Government Organization; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §7-11-5 of the Code of West Virginia, 1931, as amended, relating
2 generally to rules and regulations for county parks, recreational properties and facilities;
3 prohibiting county parks and recreation commissions from promulgating or enforcing rules
4 and regulations that prohibit possession of firearms; and providing magistrate courts with
5 concurrent jurisdiction to determine misdemeanor violations of the rules and regulations.

Be it enacted by the Legislature of West Virginia:

1 That §7-11-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

**§7-11-5. General powers of commission; rules and regulations; misdemeanor offenses;
park police authorized.**

1 The commission shall have the necessary powers and authority to manage and control all
2 public parks and recreational properties and facilities owned by the county or commission and
3 used as a part of such public parks and recreation system, including the right to promulgate rules
4 and regulations concerning the management and control of such parks and recreational
5 properties and facilities and to enforce any such rules and regulations so promulgated: *Provided,*
6 That a commission shall not promulgate or enforce rules and regulations which prohibit the
7 possession of firearms within the parks, recreational properties and facilities.

8 The commission shall also have plenary power and authority to prepare and submit to the
9 county court for adoption rules and regulations regulating the use of any parks and recreational
10 properties and facilities under the control of the commission and prohibiting any type of use of or
11 activities in connection with any such properties or facilities, and any such rules and regulations,
12 if so adopted, shall be duly entered of record in the order book of the county court. The violation
13 of any such rule and regulation so adopted by the county court shall constitute a misdemeanor
14 and, any person convicted of any such violation shall be punished by a fine of not less than \$5
15 nor more than \$100, or by imprisonment in jail for a period not exceeding thirty days, or by both

16 such fine and imprisonment. ~~Justices of the peace~~ The magistrate court of the county shall have
17 concurrent jurisdiction with the circuit court and other courts of record (having criminal jurisdiction)
18 of any misdemeanor offenses arising under this article. The violation of any such rule and
19 regulation which also constitutes the violation of any state law or municipal ordinance may be
20 prosecuted and punished as a violation of such state law or municipal ordinance rather than under
21 the provisions of this section. To enforce any such rules and regulations, to protect and preserve
22 all properties and facilities under the control of the commission and to preserve law and order in
23 connection therewith, the commission shall have plenary power and authority to provide in its
24 bylaws procedures for the appointment, supervision and discharge of one or more park police
25 officers. Whenever any such appointment is made, a copy of the order of appointment shall be
26 filed by the commission with the county court.

27 In any area under the jurisdiction and control of the commission, or in connection with any
28 properties or facilities under the jurisdiction and control of the commission, or in pursuit of one or
29 more individuals therefrom, any park police officer so appointed shall have all of the power and
30 authority which a regularly appointed deputy sheriff of such county has in enforcing the criminal
31 laws of the state. Notwithstanding any provisions of this code to the contrary, park police officers
32 appointed as aforesaid shall not be required to obtain a state license to carry a weapon, as
33 required by the provisions of section two, article seven, chapter sixty-one of this code. When any
34 such commission has purchased one or more policies of public liability insurance providing the
35 commission and its officers, agents and employees insurance coverage for legal liability of said
36 commission and its officers, agents and employees for bodily injury, personal injury or damage
37 (including, but not limited to, false arrest and false imprisonment) and property damage, and
38 affording said commission and its officers, agents and employees insurance coverage against
39 any and all legal liability arising from, growing out of, by reason of or in any way connected with,
40 any acts or omissions of said commission, or its officers, agents or employees in the performance
41 of their official duties, and so long as the coverage aforesaid remains in full force and effect as to

- 42 such park police officers, then the bond specified in section five, article seven of said chapter
43 sixty-one shall not be required as to such park police officers.

NOTE: The purpose of this bill is to bar a county commission from promulgating or enforcing rules or regulations prohibiting the possession of firearms within county parks, recreational properties or facilities. It also updates language replacing the defunct justice of the peace system with reference to magistrate courts.

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