

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2809**

BY DELEGATE SHOTT

[Introduced February 1, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact § 20-14-8 of the Code of West Virginia, 1931, as amended, relating  
2 to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

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

**ARTICLE 14. HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY.**

**§20-14-8. Prohibited acts, penalty.**

1 (a) A person may not enter or remain upon the Hatfield-McCoy Recreation Area without a  
2 valid, nontransferable user permit issued by the authority and properly displayed, except properly  
3 identified landowners or leaseholders or their officers, employees, or agents while on the land  
4 that the person owns or leases for purposes related to the ownership or lease of the land and not  
5 for recreational purposes;

6 (b) A person may not consume or possess any alcoholic liquor, nonintoxicating beer,  
7 nonintoxicating craft beer, or wine at any time or any location within the Hatfield-McCoy  
8 Recreation Area.

9 (c) The operator and all passengers of a motor vehicle within the Hatfield-McCoy  
10 Recreation Area shall wear size-appropriate protective helmets at all times. All operators and  
11 passengers shall wear helmets that meet the current performance specifications established by  
12 the American National Standards Institute standard, z 90.1, the United States Department of  
13 Transportation Federal Motor Vehicle Safety Standard no. 218 or Snell Memorial Foundation  
14 safety standards for protective headgear for vehicle users.

15 (d) Each trail user shall obey all traffic laws, traffic-control devices, and signs within the  
16 Hatfield-McCoy Recreation Area, including those which restrict trails to certain types of motor  
17 vehicles, motorcycles, or those equipped with roll cages.

18 (e) Each trail user shall at all times remain within and on a designated and marked trail  
19 while within the Hatfield-McCoy Recreation Area.

20 (f) A person may not be on any trail within the Hatfield-McCoy Recreation Area at any time  
21 from one-half hour after sunset until one-half hour before sunrise, except in an emergency.

22 (g) Every person within the Hatfield-McCoy Recreation Area who is under 16 years of age  
23 shall at all times be under the immediate supervision of, and within sight of, a person who is at  
24 least 18 years of age and who either is a parent or guardian of the youth or has the express  
25 permission of a parent or guardian to supervise the youth. No parent, guardian, or supervising  
26 adult may allow a child under the age of 16 years to leave that person's sight and supervision  
27 within the Hatfield-McCoy Recreation Area.

28 (h) A person may not ignite or maintain any fire within the Hatfield-McCoy Recreation Area  
29 except at a clearly marked location at a trailhead center.

30 (i) A person within the Hatfield-McCoy Recreation Area may not operate a motor vehicle  
31 in any competition or exhibition of speed, acceleration, racing, test of physical endurance, or  
32 climbing ability unless in an event sanctioned by the authority.

33 (j) Every person operating a motor vehicle within the Hatfield-McCoy Recreation Area is  
34 subject to all of the duties applicable to the driver of a motor vehicle by the provisions of §17C-1-  
35 1 *et seq.* of this code except where inconsistent with the provisions of this article and except as  
36 to those provisions of §17C-1-1 *et seq.* of this code which by their nature can have no application  
37 and may not operate a motor vehicle in violation of those duties.

38 (k) A person may not possess a glass container while riding on a motor vehicle within the  
39 Hatfield-McCoy Recreation Area.

40 (l) A person may not operate or ride in a utility terrain vehicle, as defined in §17F-1-1 *et*  
41 *seq.* of this code, or any other motor vehicle with bench or bucket seating and a steering wheel  
42 for control unless equipped with seat belts meeting at a minimum federal motor vehicle safety  
43 standard and properly worn by the driver and all passengers.

44 (m) (1) No child under the age of six years may be allowed on any trail within the Hatfield-  
45 McCoy Recreation Area; and

46 (2) No child under the age of eight years who is required to be placed in a child passenger  
47 safety device system meeting applicable federal motor vehicle safety standards pursuant to §17C-

48 15-46 of this code while occupying a motor vehicle may be allowed on any trail within the Hatfield-  
49 McCoy Recreation Area; and

50 (3) All persons operating or riding upon an ATV, UTV, or motorcycle as defined in §20-15-  
51 1 *et seq.* of this code shall follow the manufacturer's recommendations for that vehicle relating to  
52 age and size limitations for operators and passengers.

53 (n) A person who violates any provision of this section is guilty of a misdemeanor and,  
54 upon conviction thereof, shall be fined not more than \$100: Provided, That any person who  
55 violates subsection (e) of this section shall be guilty of a misdemeanor and fined not less than  
56 \$1,000: *Provided, however,* That in the event the person's violation of subsection (e) causes  
57 damage to a landowner's property outside of the designated and marked trail within the Hatfield-  
58 McCoy Recreation Area, or interferes with a landowner's or lawful possessor's use of the property  
59 outside of the designated and marked trail within the Hatfield-McCoy Recreation Area, the person  
60 shall be fined not less than \$2,000. Prosecution or conviction for the misdemeanor described in  
61 this subsection may not prevent or disqualify any other civil or criminal remedies for the conduct  
62 prohibited by this section.

NOTE: The purpose of this bill is to establish penalties for failing to remain within and on a designated and marked trail within the Hatfield-McCoy Recreation Area.

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