

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 236

By Senator Maynard

[Introduced January 16, 2023; referred
to the Committee on Outdoor Recreation; and then to
the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §20-17B-1, §20-17B-2, §20-17B-3, §20-17B-4, and §20-17B-5, all relating to
 3 creating the Motorsports Responsibility Act; identifying purpose; defining terms; providing
 4 for duties of motorsports; and providing for duties of participants.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17B. MOTORSPORTS RESPONSIBILITY ACT.

ARTICLE 1. MOTORSPORTS RESPONSIBILITY ACT.

§20-17B-1. Motorsports Responsibility Act.

1 This Article shall be known as the Motorsports Responsibility Act.

§20-17B-2. Purpose.

1 Every year, in rapidly increasing numbers, the inhabitants of the State of West Virginia and
 2 nonresidents are enjoying the recreational and driver training value of West Virginia Motorsports
 3 and Driver Training. The tourist trade is of vital importance to the State of West Virginia and the
 4 services offered by Motorsports and Driver Training which significantly contribute to the economy
 5 of the State of West Virginia and respective local economy. It is recognized that there are inherent
 6 risks in motorsports and driver training activities provided by the Motorsports and Driver Training
 7 industry which should be understood by each participant. It is essentially impossible for
 8 Motorsports and Driver Training providers to eliminate these risks. It is the purpose of this article to
 9 define those areas of responsibility and affirmative acts for which Motorsports as well as Driver
 10 Training facilities are liable for loss, damage or injury suffered by participants and to define the risk
 11 which participants expressly assume and for which there can be no recovery.

§20-17B 3. Definitions.

1 Unless the context of usage clearly requires otherwise:

2 (a) "Motorsports" means any person, partnership, corporation or other organization, or any
 3 combination hereof offering motorsports activities. Motorsports whether it be driver training,

4 vehicle storage, competition racing, non-competitive racing, performances, fairs, shows included
5 but not limited to motorized vehicles, cars, trucks, motorcycles or any vehicle regardless of power
6 source.

7 (b) "Driver Training" means any motorsports facility that provides qualified instruction to
8 enhance a vehicle operators ability to learn vehicle control.

9 (c) "Lessee" any qualified person or organization with the necessary licenses and liability
10 insurance meeting the motorsports facility lease requirements.

11 (d) "Participant" means any person/s or organization using the service of a motorsports
12 facility as a vehicle operator and vehicle passengers, whether a vehicle is either owned by the
13 Motorsports facility or of participant personal ownership.

§20-17B 4. Duties of motorsports.

1 Motorsports shall:

2 (a) Provide facilities, equipment and services conforming to safety and other requirements
3 established by the Motorsports facility.

4 (b) Provide facilities, equipment and services as advertised or as agreed upon by the
5 Motorsports facility and the participant or lessee.

6 (c) Maintain all equipment and vehicles used in the business in such condition that the
7 equipment and vehicles are safe to operate or use as intended.

§20-17B 5. Duties of participants.

1 (a) All participants of motorsports shall:

2 (1) Comply with any requirements established by law, including those which defines those
3 acts prohibited by operators of all motorized vehicles.

4 (2) Comply with the rules or regulations established for use of the Motorsports facility;

5 (3) Wear all safety equipment as recommended by the Motorsports facility or Lessee;

6 (4) Obey all rules or instructions announced by the Motorsports facility or Lessee regarding
7 safe operation of the vehicle or motorcycle he or she is operating; and

8 (b) Each participant and vehicle operator has the sole responsibility for:

9 (1) Recognizing that motorsports as a sport is hazardous to participants, regardless of all
10 feasible safety measures which can be taken and that each participant expressly assumes the risk
11 of and legal responsibility for any injury, loss or damage to person or property which results from
12 participation in the Motorsports sport, including but not limited to, any injury, loss or damage
13 caused by the following: variations in terrain including elevation changes, turns in the racetrack,
14 collisions with restraining walls, tires walls, other vehicles or any property provided by the
15 motorsports facility.

16 (2) Knowing the range of his or her ability to negotiate the course of the facility.

17 (3) Operating the vehicle or motorcycle within the limits of the participants own ability.

18 (4) Heeding all posted warnings.

19 (5) Operating only within the designated area as outlined by the Motorsports facility or
20 Lessee; and

21 (6) Refraining from acting in a manner which a reasonable person would believe to be
22 likely to cause or contribute to the injury of any person.

23 (c) If a vehicle operator or vehicle operators, while operating a motorized vehicle or
24 motorcycle at the motorsports facility, collides with another vehicle, motorcycle, person or
25 stationery object, resulting in damage or injury, the responsibility for the collision shall be solely
26 that of the vehicle operator or vehicle operators involved and not that of the motorsports facility.

NOTE: The purpose of this bill is to create the Motorsports Responsibility Act.

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