

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2707**

By Delegate W. Clark

[Introduced February 20, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §20-20-1, §20-20-2, §20-20-3, §20-20-4, §20-20-5, §20-20-6, §20-20-7, §20-  
3 20-8, and §20-20-9, all relating to creating the Mountain Bike Responsibility Act; stating a  
4 legislative purpose; defining terms; and providing for duties of trail system operators,  
5 mountain bicyclists, and passengers on aerial passenger tramways.

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

## **ARTICLE 20. MOUNTAIN BIKE RESPONSIBILITY ACT.**

### **§20-20-1. Legislative findings.**

1 The West Virginia Legislature finds that our natural resources and topography provide  
2 world class opportunities to attract both resident and nonresident bicyclists to this state to enjoy  
3 the sport of mountain biking, significantly contributing to the economy of West Virginia. Further, it is  
4 recognized that there are inherent risks in the sport of bicycling, and the purpose of this article is to  
5 define those areas of responsibilities and affirmative acts for which the mountain operators shall  
6 be liable for loss, damage, or injury and to define those risks that the bicyclist expressly assume.  
7 Nothing in this article shall impact other defenses that may be raised by mountain operators  
8 against claims asserted by bicyclists.

### **§20-20-2. Definitions.**

1 The terms in this article have the following meaning, unless the context clearly requires a  
2 different meaning:

3 (1) "Aerial passenger tramway" means any device operated by a trail system operator  
4 used to transport passengers by single or double reversable tramway, chairlift or gondola lift, T-bar  
5 lift, J-bar lift, platter lift, or similar device; a fiber rope or wire rope tow, or a conveyor.

6 (2) "Mountain Bicyclist" means any person present at a trail system area under the control  
7 of a trail system operator for the purpose of engaging in activities, including, without limitation,  
8 bicycling downhill or uphill, jumping on a bicycle, or any other cycling device. "Mountain Bicyclist"  
9 does not include a person using an aerial passenger tramway.

(3) "Trail system area" means the property owned, leased, or authorized under a special use permit, and under the control of the trail system operator.

(4) "Trail system operator" means any person, partnership, corporation, or other commercial entity, its agents, officers, employees, or representatives, who has, as part of a commercial, private, or for-profit endeavor, operational responsibility for mountain bicycling activities at any trail system area and the use of an aerial passenger tramway for such purpose. Trail system operator does not include any public or non-profit corporation, its agents, officers, employees, or representatives, who has operational responsibility of mountain bicycling activities at any trail system area.

(5) "Passenger" means any person who is lawfully using an aerial passenger tramway or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.

(6) "Mountain Bike trails" means all mountain bike trails designated by the trail system operator to be used by mountain bicyclists for the purpose of participating in the sport of mountain biking including but not limited, to downhill trails, cross-country trails, free ride trails, pump tracks, and skills areas.

**§20-20-3. Duties of trail system operators with respect to trail system.**

Every trail system operator shall:

(1) Mark all trail maintenance vehicles and furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the mountain biking area;

(2) Maintain a trail board at a prominent location at the trail system area displaying that area's network of mountain bike trails;

(3) Designate and mark conspicuously the top or entrance of all mountain bike trails with a name and color, or symbol recognized in the mountain biking industry reflecting the relative degree of difficulty of the mountain bike trail. Such designation shall be at or near the top or entrance of

the mountain bike trail. Any mountain bike trail which is closed shall be so marked at the trailhead;

(4) Designate by trail board or otherwise which trails are open or closed.

(5) Follow published operational industry standards and guidelines;

(6) Provide internal trained and dedicated emergency response personnel or enter into an adequate emergency response plan with a local fire or EMS agency, or post at the trail board maintained under subdivision (1) of this section instructions on how to contact emergency response personnel;

(7) Maintain the mountain bike trails in a reasonably safe condition, except that such trail system operator shall not be responsible for any injury, loss or damage caused by the following: uneven or slippery rail and feature conditions; varying slopes and terrain; bumps; stumps; trees; roots; forest growth; cliffs; rock and rock drops; loose gravel and dirt; wet surfaces; holes and potholes; downed timber; debris; depressions; other bicyclists; dark tunnels; jumps; bridges; dirt or wood features/jumps; elevated features; and other constructed features; lift loading and unloading; padded and nonpadded barriers; paved surfaces; collisions with vehicles, pedestrians, wildlife, properly marked heavy equipment that is identified as a dangerous and/or hazardous work zone; properly marked permanent structures; and mechanical or other failure of rental or personal equipment;

(8) Post at the trail board maintained under subdivision (1) of this section the following language:

"WARNING – ASSUMPTION OF RISKS:

Under West Virginia law, every mountain bicyclist is considered to have accepted and to have knowledge of the risk of injury (including death) to the mountain bicyclist, as well as damage to property of the mountain bicyclist. Under West Virginia law, every mountain bicyclist has the duty to take the precautions that are necessary to avoid injury or death, as well as damage to property. West Virginia law sets forth certain limitations on the liability of trail system operators for injury or death to a bicyclist, as well as damage to property.

(9) Post a sign at all aerial passenger tramways that advises the passengers to seek advice if not familiar with riding the aerial passenger tramway; and

(10) Construct, operate, maintain, and repair any aerial passenger tramway in accordance with relevant and published national standards and safety requirements for such machinery.

(11) When no certified ambulance service is available in the vicinity, have on duty at or near the trail area, during all times that trail areas are open for mountain biking, at least one trained and currently certified emergency medical technician.

**§20-20-4. Duties of passengers.**

No passenger shall:

(1) Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose;

(2) Drop, throw, or expel any object from an aerial passenger tramway;

(3) Perform any act that interferes with the running or operation of an aerial passenger tramway;

(4) Use any aerial passenger tramway if the passenger does not have the ability to use it safely without instruction, until the passenger has received sufficient instruction to permit safe usage;

(5) Embark on an aerial passenger tramway without engaging such safety or restraining devices as may be provided;

(6) Embark on an aerial passenger tramway without the authority, expressed or implied, of the trail system operator;

(7) Embark on an aerial passenger tramway while impaired by alcohol or drugs.

**§20-20-5. Duties of mountain bicyclists.**

(a) It is expressly recognized that mountain bicycling as a recreational sport is hazardous, regardless of all feasible safety measures which can be taken.

(b) Each mountain bicyclist expressly assumes the risk of, and legal responsibility for, any

injury, loss or damage to person or property which results from participation in the sport of mountain bicycling including, but not limited to, any injury, loss or damage caused by the following: uneven or slippery trail and feature conditions; varying slopes and terrain; bumps, stumps; trees; roots; forest growth; cliffs; rock and rock drops; loose gravel and dirt; wet surfaces; holes and potholes; downed timber; debris; depressions; other bicyclists; dark tunnels; jumps; bridges; dirt or wood features/jumps; elevated features and other constructed features; lift loading and unloading; padded and nonpadded barriers; paved surfaces; collisions with vehicles, pedestrians, wildlife, properly marked heavy equipment that is identified as a dangerous and/or hazardous work zone; properly marked permanent structures; and mechanical or other failure of rental or personal equipment.

(c) Each mountain bicyclist shall have the sole individual responsibility for knowing the range of his or her own ability to negotiate any trail. Further, it shall be the duty of each mountain bicyclist to ride within the limits of the mountain bicyclist's own ability; to maintain reasonable control of speed and course at all times while mountain bicycling; to heed all posted warnings; to mountain bicycle only on a bike trail area designated by the trail system operator; to assess the difficulty of mountain bike trails; to be able to stop or avoid other individuals and objects; and to refrain from acting in a manner which may cause or contribute to the injury of anyone.

(d) If involved in a collision with another individual that results in injury, it shall be the duty of a mountain bicyclist to remain in the vicinity of the collision until giving his or her name and current address to a representative of the trail system operator or to all other parties to the collision except to secure aid for a person injured in a collision. A mountain bicyclist who leaves the vicinity to secure aid shall provide his or her name and current address after securing the aid.

(e) If while mountain bicycling any mountain bicyclist collides with any object or person, except an obviously intoxicated person of whom the trail system operator is aware, the responsibility for such collision shall be solely that of the mountain bicyclist or mountain bicyclists involved and not that of the trail system operator.

**§20-20-6. Liability of trail system operator.**

1        (a) A trail system operator may be liable for injury, loss, or damage caused by its failure to  
2 follow the duties set forth in §20-20-3 of this code where the violation of duty is causally related to  
3 the injury, loss, or damage suffered.

4        (b) A trail system operator is not liable for any injury, loss, or damage caused by the  
5 negligence of any person who is not an agent or employee of the trail system operator.

6        (c) A trail system operator is not liable for any injury, loss, or damage caused by a mountain  
7 bicyclist or passenger's violation of any duty described in this article.

8        (d) Every trail system operator shall carry public liability insurance in limits of no less than  
9 \$100,000 per person, \$300,000 per occurrence, and \$10,000 for property damage.

**§20-20-7. Liability of passengers.**

1        Any passenger may be liable for injury, loss, or damage resulting from violations of the  
2 duties established in §20-20-4 of this code where the violation of duty is causally related to the  
3 injury, loss, or damage suffered.

**§20-20-8. Liability of mountain bicyclist.**

1        Any mountain bicyclist may be liable for injury, loss, or damage resulting from violations of  
2 the duties established in §20-20-5 of this code where the violation of duty is causally related to the  
3 injury, loss, or damage suffered.

**§20-20-9. Release of minor participant.**

1        A parent or guardian of a minor participant may execute a release assuming responsibility  
2 for the risks of the minor participant. The release must give notice to the minor participant, and the  
3 parent or guardian, of the risks associated with the release.

NOTE: The purpose of this bill is to create the Mountain Bike 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.