

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 595

BY SENATORS WOODRUM, JEFFRIES, MAYNARD, HELTON,

DEEDS, AND WILLIS

[Reported March 20, 2025, from 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, §20-20-9, and §20-20-10, relating to creating the Mountain Bike Responsibility Act;
4 stating a legislative purpose; defining terms; providing for the duties and liabilities of trail
5 system operators, mountain bicyclists, and passengers on aerial passenger tramways;
6 providing for competition responsibilities; and providing a release for minor participants.

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
4 is recognized that there are inherent risks in the sport of bicycling, and the purpose of this article
5 is to define those areas of responsibilities and affirmative acts for which the mountain operators
6 are liable for loss, damage, or injury and to define those risks that the bicyclist expressly assume.
7 Nothing in this article impacts other defenses that may be raised by mountain operators against
8 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 reversible tramway, chairlift or gondola lift, T-
5 bar lift, J-bar lift, platter lift, or similar device, a fiber rope or wire rope tow, or a conveyor.

6 (2) "Bicycle" has the same meaning as defined in §17C-1-18 of this code.

7 (3) "Competitor" means a mountain bicyclist actually engaged in competition, a special
8 event, or training or practicing for competition or a special event on any portion of the area made
9 available by the trail system operator.

10 (4) "Mountain bicyclist" means any person present at a trail system area under the control
11 of a trail system operator for the purpose of engaging in activities, including, without limitation,
12 bicycling downhill or uphill, or jumping on a bicycle. "Mountain bicyclist" does not include a person
13 using an aerial passenger tramway.

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

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

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

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

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

1 Every trail system operator shall:

2 (1) Maintain trail boards at prominent locations on the trail system area, including, but not
3 limited to, at each aerial passenger tramway used by mountain bicyclists, and at any confluence
4 of three or more mountain bike trails. Each trail board shall display that trail system area's network
5 of mountain bike trails;

6 (2) Designate and mark conspicuously all mountain bike trails with a name and color, or
7 symbol recognized in the mountain biking industry reflecting the relative degree of difficulty of the
8 mountain bike trail. The designation shall be at or near the top or entrance of the mountain bike
9 trail and at each place where one or more mountain bike trails intersect with one another. Any
10 mountain bike trail which is closed shall be marked as closed at the trailhead and at each place
11 where the closed trail intersects with another mountain bike trail;

12 (3) Follow published operational industry standards and guidelines;

13 (4) Establish a written emergency operations plan, and post at the trail boards maintained
14 under subdivision (1) of this section instructions on how to contact emergency response
15 personnel. The emergency operations plan shall be provided to the emergency management
16 authority responsible for the trail system area, as well as the primary response agency serving
17 the trail system area;

18 (5) Maintain the mountain bike trails in a reasonably safe condition, except that the trail
19 system operator is not responsible for any injury, loss, or damage caused by the following: Uneven
20 or slippery rail and feature conditions; varying slopes and terrain; bumps; stumps; trees; roots;
21 forest growth; cliffs; rock and rock drops; loose gravel and dirt; wet surfaces; holes and potholes;
22 downed timber; debris; depressions; other bicyclists; dark tunnels; jumps; bridges; dirt or wood
23 features/jumps; elevated features; lift loading and unloading; padded and nonpadded barriers;
24 paved surfaces; collisions with vehicles, pedestrians, wildlife, heavy equipment that is identified
25 as dangerous and/or a hazardous work zone; and properly marked permanent structures, or other
26 similar objects;

(6) 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;

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

(8) Construct, operate, maintain, and repair any aerial passenger tramway in accordance with relevant and published national standards and safety requirements for the machinery;

(9) Construct, operate, maintain, and repair any mountain bike trail in accordance with relevant mountain biking industry standards; and

(10) Repair and maintain all mountain bicycling equipment which is made available to mountain bicyclists, whether by rental agreement or otherwise.

§20-20-4. Duties of passengers.

A passenger shall not:

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

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

10 (5) Embark on an aerial passenger tramway without engaging safety or restraining devices
11 that are provided;

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

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

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

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

3 (b) Each mountain bicyclist expressly assumes the risk of, and legal responsibility for, any
4 injury, loss, or damage to person or property which results from participation in the sport of
5 mountain bicycling including, but not limited to, any injury, loss, or damage caused by the
6 following: Uneven or slippery trail and feature conditions; varying slopes and terrain; bumps,
7 stumps; trees; roots; forest growth; cliffs; rock and rock drops; loose gravel and dirt; wet surfaces;
8 holes and potholes; downed timber; debris; depressions; other bicyclists; dark tunnels; jumps;
9 bridges; dirt or wood features/jumps; elevated features; lift loading and unloading; padded and
10 nonpadded barriers; paved surfaces; collisions with vehicles, pedestrians, wildlife, and heavy
11 equipment that is identified as dangerous and/or a hazardous work zone; and properly marked
12 permanent structures, or other similar objects.

13 (c) Each mountain bicyclist has the sole individual responsibility for knowing the range of
14 his or her own ability to negotiate any trail. Further, each mountain bicyclist shall ride within the
15 limits of the mountain bicyclist's own ability; maintain reasonable control of speed and course at
16 all times while mountain bicycling; to heed all posted warnings; operate a mountain bicycle only
17 on a bike trail area designated by the trail system operator; assess the difficulty of mountain bike

trails; be able to stop or avoid other individuals and objects; and 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, a mountain bicyclist, if physically able to do so, shall 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 the collision is 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.

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

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

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

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

§20-20-7. Liability of passengers.

Any passenger may be liable for injury, loss, or damage resulting from violations of the duties established in §20-20-4 of this code where the violation of duty is causally related to the 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
2 of the duties established in §20-20-5 of this code where the violation of duty is causally related to
3 the injury, loss, or damage suffered.

§20-20-9. Competition.

1 (a) The trail system operator shall, prior to use of any portion of the area made available
2 by the trail system operator, allow each competitor the opportunity to conduct a reasonable visual
3 inspection of the trails used in the competition.

4 (b) The competitor shall be held to assume the risk of all trail terrain conditions including,
5 but not limited to, weather conditions, obstacles, course or feature location, construction or layout,
6 terrain configuration and conditions, and other courses, layouts, or configurations of the area to
7 be used. Liability does not attach to a trail system operator for injury or death to any competitor
8 caused by course, venue, or area conditions that a visual inspection should have revealed or by
9 collisions with other competitors.

§20-20-10. 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
3 the parent or guardian, of the risks associated with the release.