

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4478

By Delegates G. Howell, B. Ward, Dittman, Heckert,
Kyle, Linville, Bell, Brooks, Funkhouser, and Ellington

[Introduced January 16, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §55-7-33, relating to limiting liability of racing facilities for certain claims;
3 defining terms; creating time limits on actions; preempting local regulation; and setting an
4 effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-33. Racing facilities; limitations on civil liability; local regulation prohibited.

1 (a) Definitions.

2 For purposes of this section:

3 "Racing facility" or "racetrack" means a lawfully established facility or designated area
4 used for competitive vehicle or motorsport racing. The term includes the track surface, spectator
5 areas, garages, pits, staging areas, parking areas, and all buildings, structures, and
6 appurtenances used in connection with racing operations.

7 "Surrounding property owner" means a person who owns, leases, or otherwise possesses
8 real property located in the vicinity of a racing facility.

9 (b) Immunity of preexisting racing facilities.

10 A racing facility that was lawfully established and in operation before a surrounding
11 property owner acquired or improved real property may not be found to constitute a public or
12 private nuisance, nor be subject to any civil action based upon nuisance, noise, vibration,
13 trespass, inverse condemnation, taking, or any other similar theory arising from the normal and
14 customary operation of the racing facility.

15 (c) Continuation of immunity.

16 (1) The immunity provided by this section shall not be affected by any change in
17 ownership, size, scope, configuration, technology, equipment, frequency of events, or type of
18 racing conducted at the racing facility, provided the facility continues to operate in compliance with
19 applicable state and federal law.

20 (2) Compliance with state and federal law constitutes *prima facie* evidence that the
21 operation of the racing facility is reasonable and lawful.

22 (d) *Time limitation on actions.*

23 Notwithstanding any other provision of law, no civil action based upon nuisance, noise,
24 vibration, trespass, inverse condemnation, taking, or any similar theory may be brought against a
25 racing facility by any surrounding property owner if the racing facility has been in continuous,
26 lawful operation for a period of five years or more prior to the filing of the action.

27 (e) *Applicability.*

28 The protections provided by this section apply only to claims brought by surrounding
29 property owners who acquired or improved their real property after the racing facility was lawfully
30 established or commenced operations, or who failed to bring a claim within the time period
31 provided in subsection (d) of this section.

32 (f) *Preemption of local regulation.*

33 No county, municipality, or other political subdivision of this state may adopt or enforce any
34 ordinance, regulation, resolution, zoning restriction, or land use requirement that has the purpose
35 or effect of limiting, restricting, or prohibiting the operation of a racing facility in a manner
36 inconsistent with this section.

37 (g) *Effective date.*

38 This section shall take effect immediately upon passage.

NOTE: The purpose of this bill is to create immunity for racing facilities from certain liability.

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