

HB # 4061

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. For
HOUSE BILL No. *4061*

(By Delegates *Petersen and Lino*)



Passed *March 11,* 1994

In Effect *90 Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4061
(By DELEGATES PETERSEN AND PINO)

[Passed March 11, 1994; in effect ninety days from passage.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve, relating to creating the commercial bungee jumping safety act; short title; definitions; rules; inspections and permit fees; permits and applications; certificates of inspection; notices of physical injuries or fatality; service of process; requirement of insurance or bond; permitting regulation by cities and counties; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve, to read as follows:

ARTICLE 12. COMMERCIAL BUNGEE JUMPING SAFETY ACT.

§21-12-1. Short title.

1 This article shall be known and may be cited as the
2 "Commercial Bungee Jumping Safety Act."

§21-12-2. Definitions.

1 As used in this article:

2 “Bungee jumping” means a commercial recreational
3 activity where participants jump off a platform or other
4 area, whether natural or man-made with a cord or other
5 elastic device attached or otherwise affixed or connected
6 to the jumper in order to prevent the jumper from
7 striking the ground or earth below the jump platform,
8 and which activity is engaged in for the purpose of
9 giving the jumpers amusement, pleasure, thrills or
10 excitement.

§21-12-3. Rules.

1 The division of labor shall promulgate rules for the
2 safe installation, repair, maintenance, use, operation and
3 inspection of all commercial bungee jumping activities.
4 The rules shall be in addition to any existing applicable
5 safety orders and shall be concerned with the elasticity
6 of cords relative to a jumper’s weight; loss of cord
7 elasticity after repetitive jumps; clear area in which the
8 cord and jumper may swing following a jump; risks of
9 falling off of a jump platform, both by customers and
10 employees, equipment quality; engineering force
11 stresses, safety devices and preventative maintenance.
12 The rules shall be promulgated and designed for the
13 purpose of developing commercial bungee jumping as a
14 recreational activity and additional tourist attraction in
15 West Virginia. All rules shall be promulgated in
16 accordance with the provisions of article three, chapter
17 twenty-nine-a of this code.

§21-12-4. Inspection and permit fees.

1 The division shall determine a schedule of inspection
2 and permit fees, which fees shall not exceed one
3 hundred dollars per commercial bungee jumping site
4 per year. All fees received shall be deposited in the
5 general revenue fund. No fees may be charged to public
6 agencies.

§21-12-5. Inspectors.

1 The division may hire or contract with inspectors to
2 inspect bungee jumping sites.

§21-12-6. Permits; application; annual inspection.

1 (a) An operator or owner shall not knowingly permit
2 the operation of a commercial bungee jumping event
3 without a permit issued by the division.

4 (b) Commercial bungee jumping sites will be in-
5 spected at intervals to be determined by the division of
6 labor, but in no event, shall a commercial bungee
7 jumping site be inspected less frequently than once per
8 year.

**§21-12-7. Issuance of permit; certificate of inspection;
availability to public.**

1 If, after inspection, a commercial bungee jumping
2 site, together with the jump platform and equipment, is
3 found to comply with the rules of the division, the
4 division shall issue a permit to operate. The permit shall
5 be in the form of a certificate of inspection and shall be
6 kept in the records of any operator or owner for a three-
7 year period and shall be readily accessible to the public
8 for inspection at any reasonable time at the commercial
9 bungee jumping site or where a commercial bungee
10 jump is located. A copy of certificate, showing the last
11 date of inspection, shall be affixed to the bungee
12 jumping platform upon issuance, or at any other location
13 designated by the commissioner of the division of labor.

**§21-12-8. Notice of serious physical injury or fatality;
investigations; records available to public.**

1 An owner or operator of a commercial bungee
2 jumping site shall notify the division not later than
3 twenty-four hours after any fatality or accident occur-
4 ring as a result of the operation of the commercial
5 bungee jumping site that results in a serious physical
6 injury requiring medical treatment or results in a loss
7 of consciousness. The notice may be oral or written. The
8 division shall investigate each fatality or accident and
9 any safety related complaint involving a commercial
10 bungee jumping site in this state about which the
11 division receives notice. Every owner or operator of a
12 commercial bungee jumping site shall keep a record of
13 each accident or fatality and the record shall be kept
14 with the certificate of inspection required by this article
15 and shall be readily accessible to the public for

16 inspection at any reasonable time at the commercial
17 bungee jumping site or where the attraction is located.

§21-12-9. Service of process.

1 Any person, firm or corporation operating a commer-
2 cial bungee jumping site may be served with civil
3 process in the same manner as if the owner or operator
4 was a domestic or foreign corporation.

**§21-12-10. Temporary cessation of operation of bungee
jumping site or attraction determined to be
unsafe.**

1 The division may order, in writing, a temporary
2 cessation of operation of a commercial bungee jumping
3 site if it has been determined after inspection to be
4 hazardous or unsafe. Operation shall not resume until
5 the conditions are corrected to the satisfaction of the
6 division.

§21-12-11. Insurance; bond.

1 No person may operate a commercial bungee jumping
2 site unless at the time there is in existence (a) a policy
3 of insurance approved by the division and obtained from
4 an insurer authorized to do business in this state in an
5 amount of not less than three hundred thousand dollars
6 per person and one million dollars in the aggregate for
7 each commercial bungee jumping site or jump platform
8 location insuring the owner or operator against liability
9 for injury suffered by persons jumping from the jump
10 platform or by persons in, on, under or near the jump
11 platform or commercial bungee jumping site, or (b) a
12 bond in a like amount, as approved by the division:
13 *Provided*, That the aggregate liability of the surety
14 under any bond shall not exceed the face amount
15 thereof, or (c) cash or other security acceptable to the
16 division. Satisfactory evidence of insurance, bond or
17 other security shall accompany the permit application.

**§21-12-12. Regulation of commercial bungee jumping
events and attractions by cities and
counties.**

1 Nothing contained in this article prevents cities and

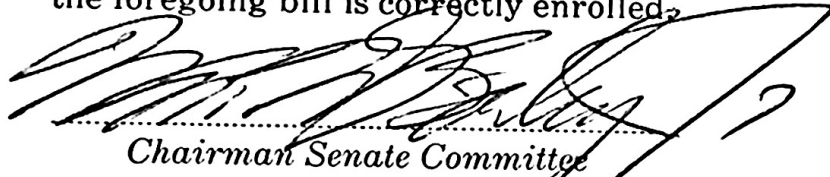
2 counties from regulating commercial bungee jumping
3 sites or events with regard to any aspect not relating to
4 installation, repair, maintenance, use, operation and
5 inspection of the commercial bungee jump site, jump
6 platforms or equipment.

§21-12-13. Criminal penalty for violation.

1 Any operator or owner who knowingly permits the
2 operation of a commercial bungee jumping site or event
3 in violation of the provisions of section six of this article
4 is guilty of a misdemeanor, and, upon conviction thereof,
5 shall be fined not more than one thousand dollars,
6 imprisoned in the county jail not more than twelve
7 months, or both fined and imprisoned.

Enr. Com. Sub. for H. B. 4061] 6

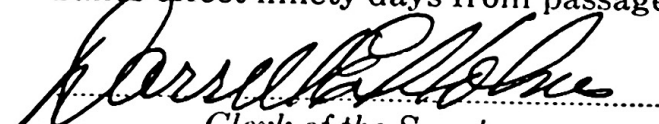
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

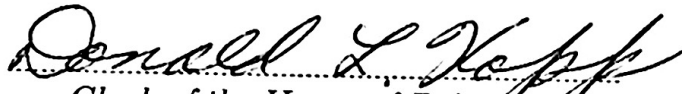

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Chairman Senate Committee

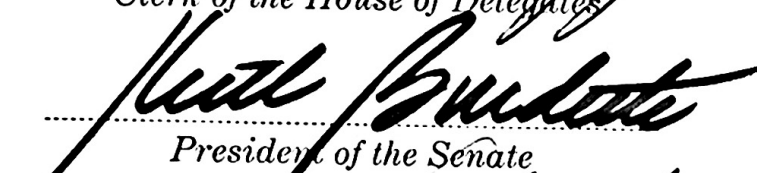

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Ernest C. Moore
Chairman House Committee

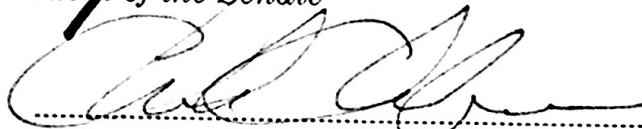
Originating in the House.

Takes effect ninety days from passage.

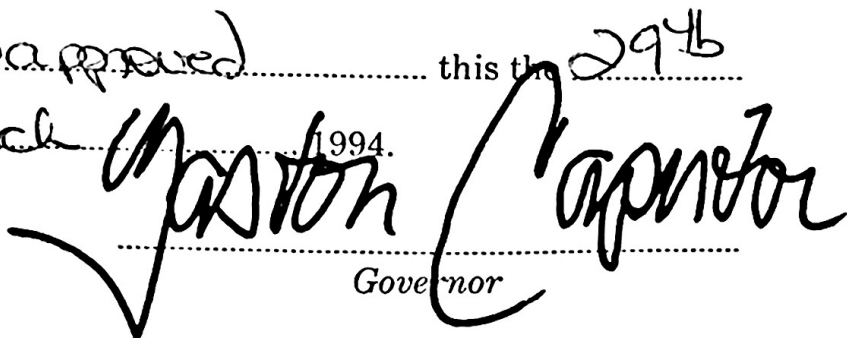

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within approved this the 29th
day of March 1994.


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Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/94

Time 9:52 am