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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 378

(By Senator WOOTEN, ET AL)



PASSED APRIL 10, 1997

In Effect NINETY DAYS FROM Passage

ENROLLED

Senate Bill No. 378

(BY SENATORS WOOTON, BALL, BOWMAN, DITTMAR, HUNTER,
OLIVERIO, ROSS, SCHOONOVER, SNYDER, WHITE, WIEDEBUSCH,
BUCKALEW, DEEM, KIMBLE AND SCOTT)

[Passed April 10, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two and four, article twenty-five, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to encouraging private landowners to allow the public to enter private lands for recreational purposes; providing for limitation of landowner liability for injury to persons entering private property and injury to the property of persons entering such property; and providing an exception for liability for deliberate, intentional or malicious infliction of injury.

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, article twenty-five, chapter nineteen of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 25. LIMITING LIABILITY OF LANDOWNERS.

§19-25-1. Purpose.

1 The purpose of this article is to encourage owners of
2 land to make available to the public land and water areas
3 for military training or recreational or wildlife propaga-
4 tion purposes by limiting their liability for injury to
5 persons entering thereon and for injury to the property of
6 persons entering thereon and limiting their liability to
7 persons who may be injured or otherwise damaged by the
8 acts or omissions of persons entering thereon.

§19-25-2. Limiting duty of landowner generally.

1 Subject to the provisions of section four of this article,
2 an owner of land owes no duty of care to keep the pre-
3 mises safe for entry or use by others for recreational or
4 wildlife propagation purposes, or to give any warning of
5 a dangerous or hazardous condition, use, structure or
6 activity on such premises to persons entering for such
7 purposes.

8 Subject to the provisions of section four of this article,
9 an owner of land who either directly or indirectly invites
10 or permits without charge as that term is defined in
11 section five of this article, any person to use such property
12 for recreational or wildlife propagation purposes does not
13 thereby: (a) Extend any assurance that the premises are
14 safe for any purpose; or (b) confer upon such persons the
15 legal status of an invitee or licensee to whom a duty of
16 care is owed; or (c) assume responsibility for or incur
17 liability for any injury to person or property caused by an
18 act or omission of such persons.

§19-25-4. Application of article.

1 Nothing herein limits in any way any liability which
2 otherwise exists: (a) For deliberate, willful or malicious
3 infliction of injury to persons or property; or (b) for injury
4 suffered in any case where the owner of land charges the
5 person or persons who enter or go on the land other than
6 the amount, if any, paid to the owner of the land by the

7 federal government or any agency thereof, the state or any
8 agency thereof, or any county or municipality or agency
9 thereof.

10 Nothing herein creates a duty of care or ground of
11 liability for injury to person or property.

12 Nothing herein limits in any way the obligation of a
13 person entering upon or using the land of another for
14 recreational or wildlife propagation purposes to exercise
15 due care in his or her use of such land and in his or her
16 activities thereon.

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

Kandy Schoonover
.....
Chairman Senate Committee

Nick Fantasia
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Karrell Holmes
.....
Clerk of the Senate

Buguy Z. Bony
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *22nd*
day of *April*, 1997.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/16/97

Time 3:00pm