WEST VIRGINIA CODE CHAPTER 20 ARTICLE 7A

WV Legislature

§20-7A-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Cave" means any naturally occurring subterranean cavity. The word "cave" includes or is synonymous with cavern, pit, pothole, well, sinkhole and grotto.

(b) "Commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

(c) "Gate" means any structure or device located to limit or prohibit access or entry to any cave.

(d) "Person or persons" means any individual, partnership, firm, association, trust or corporation.

(e) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

(f) "Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land.

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§20-7A-2. Vandalism; penalties.

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

(a) Break, break off, crack, carve upon, write, burn or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;

(b) Disturb or alter in any manner the natural condition of any cave;

(c) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

Any person violating a provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $150 nor more than $500, and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.

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§20-7A-3. Sale of speleothems unlawful; penalties.

It is unlawful to sell or offer for sale any speleothems in this state, or to export them for sale outside the state. A person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $150 nor more than $500 and in addition thereto, may be imprisoned in the county jail for not less than ten days nor more than six months.

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§20-7A-4. Biological policy; penalties for violation.

It is unlawful to remove, kill, harm or disturb any plant or animal life found within any cave: Provided, That scientific collecting permits may be obtained from the director as provided in section fifty, article two of this chapter. Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, insects, bats and aquatic fauna. A person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $200 nor more than $500 and in addition thereto, may be imprisoned in the county jail for not less than fifteen days nor more than six months.

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§20-7A-5. Archaeology; permits for excavation; how obtained; prohibitions; penalties.

(a) No person may excavate, remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archaeological or paleontological site including saltpeter workings, relics or inscriptions, fossilized footprints, bones or any other such features which may be found in any cave.

(b) Notwithstanding the provisions of subsection (a) of this section, a permit to excavate or remove archaeological, paleontological, prehistoric and historic features may be obtained from the director of natural resources. Such permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable but this does not preclude persons from working under the direct supervision of the person holding the permit: Provided, That the director shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested.

A person applying for such a permit must:

(1) Provide a detailed statement to the director of natural resources giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.

(2) Provide data and results of any completed excavation, study or collection at the first of each calendar year.

(3) Obtain the prior written permission of the director of natural resources if the site of the proposed excavation is on state-owned lands and prior written permission of the owner if the site of such proposed excavation is on privately owned land.

(4) Carry the permit while exercising the privileges granted.

A person who violates any provision of subsection (a) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500, and may be imprisoned in the county jail for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500, and the permit herein authorized shall be revoked.

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§20-7A-6. Liability of owners and agents.

(a) Neither the owner of a cave nor his authorized agents acting within the scope of their authority are liable for injuries sustained by any person using such features for recreational or scientific purpose if the prior consent of the owner has been obtained and if no charge has been made for the use of such features.

(b) An owner of a commercial cave is not liable for an injury sustained by a spectator who has paid to view the cave, unless such injury is sustained as a result of such owner's negligence in connection with the providing and maintaining of trails, stairs, electrical wires or other modifications, and such negligence is the proximate cause of the injury.

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