WEST VIRGINIA CODE: §23-2-8

§23-2-8. Liability of employer for failing to procure or maintain workers' compensation insurance; certain common-law defenses prohibited; exceptions.

All employers who fail to procure and continuously maintain workers' compensation insurance as required by this chapter or who fail to obtain permission to self-insure their workers' compensation risk as permitted by §23-2-9 of this code shall be liable to their employees (within the meaning of this article) for all damages suffered by reason of personal injuries sustained in the course of employment caused by the wrongful act, neglect, or default of the employer or any of the employer's officers, agents, or employees while acting within the scope of their employment and in the course of their employment and also to the personal representatives of such employees where death results from such personal injuries, and in any action by any such employee or personal representative thereof, such defendant shall not avail himself or herself of the following common-law defenses: The defense of the fellow-servant rule; the defense of the assumption of risk; or the defense of contributory negligence; and further shall not avail himself or herself of any defense that the negligence in question was that of someone whose duties are prescribed by statute: *Provided*, That such provision depriving a defendant employer of certain common-law defenses under the circumstances therein set forth shall not apply to an action brought against a county court, Board of Education, municipality, or other political subdivision of the state, or against any employer not required to cover his or her employees under the provisions of this chapter.

WV Legislature