

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965

ENROLLED

SENATE BILL NO. 156

(By Mr. McCourt)

PASSED March 12 1965

In Effect thirty days from Passage



FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 3-18-65

9-5-6
#

ENROLLED

Senate Bill No. 156

(By MR. McCOURT)

[Passed March 12, 1965; in effect ninety days from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, to encourage landowners to make available to the public land and water areas and other property for recreational purposes by limiting their liability toward users.

Be it enacted by the Legislature of West Virginia:

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

Article 25. Limiting Liability of Landowners.

Section 1. Purpose.—The purpose of this article is to
2 encourage owners of land to make available to the public
3 land and water areas for recreational purposes by limiting
4 their liability toward persons entering thereon and toward
5 persons who may be injured or otherwise damaged by the
6 acts or omissions of persons entering thereon.

Sec. 2. Limiting Duty of Landowner.—Subject to the
2 provisions of section four of this article, an owner of land
3 owes no duty of care to keep the premises safe for entry or
4 use by others for recreational purposes, or to give any
5 warning of a dangerous or hazardous condition, use, struc-
6 ture, or activity on such premises to persons entering for
7 such 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 any person to use such property
11 for recreational purposes does not thereby (a) extend
12 any assurance that the premises are safe for any purpose,
13 or (b) confer upon such persons the legal status of an
14 invitee or licensee to whom a duty of care is owed, or

15 (c) assume responsibility for or incur liability for any in-
16 jury to person or property caused by an act or omission
17 of such persons.

Sec. 3. Limiting Duty of Landowner Who Leases Land

2 to State; Counties, Municipalities or Agencies.—Unless
3 otherwise agreed in writing, an owner of land leased to
4 the state or any agency thereof, or any county or munic-
5 ipality or agency thereof, for recreational purposes owes
6 no duty of care to keep that land safe for entry or use by
7 others or to give warning to persons entering or going
8 upon such land of any dangerous or hazardous conditions,
9 uses, structures or activities thereon. An owner who leases
10 land to the state or any agency thereof, or any county or
11 municipality or agency thereof, for recreational purposes
12 shall not by giving such lease (a) extend any assurance
13 to any person using the land that the premises are safe
14 for any purpose, or (b) confer upon such persons the legal
15 status of an invitee or licensee to whom a duty of care is
16 owed, or (c) assume responsibility for or incur liability
17 for any injury to person or property caused by an act or
18 omission of a person who enters upon the leased land.

19 The provisions of this section apply whether the person
20 entering upon the leased land is an invitee, licensee, tres-
21 passer or otherwise.

Sec. 4. Application of Article.—Nothing herein limits
2 in any way any liability which otherwise exists (a) for
3 wilful or malicious failure to guard or warn against a
4 dangerous or hazardous condition, use, structure, or activ-
5 ity, or (b) for injury suffered in any case where the
6 owner of land charges the person or persons who enter or
7 go on the land other than the amount, if any, paid to the
8 owner of the land by the state or any agency thereof, or
9 any county or municipality or agency thereof.

10 Nothing herein creates a duty of care or ground of lia-
11 bility 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 purposes to exercise due care in his use of
15 such land and in his activities thereon.

Sec. 5. Definitions.—For purposes of this article: (a)
2 The term “land” shall include, but not be limited to, roads,
3 water, watercourses, private ways and buildings, struc-

4 tures and machinery or equipment thereon when attached
5 to the realty, (b) the term "owner" shall include, but not
6 be limited to, tenant, lessee, occupant or person in control
7 of the premises, (c) the term "recreational purposes"
8 shall include, but not be limited to, any one or any combi-
9 nation of the following: hunting, fishing, swimming, boat-
10 ing, camping, picnicking, hiking, pleasure driving, nature
11 study, water skiing, winter sports and visiting, viewing
12 or enjoying historical, archaeological, scenic or scientific
13 sites, or otherwise using land for purposes of the user, and
14 (d) the term "charge" shall mean the amount of money
15 asked in return for an invitation to enter or go upon the
16 land.

Sec. 6. Severability.—The provisions of this article are
2 severable. If any section, subsection, sentence, clause or
3 provision of this article is held invalid, the remainder of
4 the article shall not be affected.

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

A. Ray Parker
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the Senate.

Takes effect *ninty days from* Passage.

Howard Hayes
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Harold Hanson
President of the Senate

H. Lehan White
Speaker House of Delegates

The within *approved* this the *18*
day of *March*, 1965.

Walter C. Smith
Governor



Presented to Governor's Office

3/17/65

3:50 p.m.