WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

Com. Sub. For

HOUSE BILL No. H061...

(By Delegates... Petersen and Line...

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Passed March 11, 1994

In Effect 90 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:
“Bungee jumping” means a commercial recreational activity where participants jump off a platform or other area, whether natural or man-made with a cord or other elastic device attached or otherwise affixed or connected to the jumper in order to prevent the jumper from striking the ground or earth below the jump platform, and which activity is engaged in for the purpose of giving the jumpers amusement, pleasure, thrills or excitement.

§21-12-3. Rules.

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

§21-12-4. Inspection and permit fees.

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

§21-12-5. Inspectors.

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

§21-12-6. Permits; application; annual inspection.
(a) An operator or owner shall not knowingly permit the operation of a commercial bungee jumping event without a permit issued by the division.

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

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

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

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

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

1 Nothing contained in this article prevents cities and
counties from regulating commercial bungee jumping
sites or events with regard to any aspect not relating to
installation, repair, maintenance, use, operation and
inspection of the commercial bungee jump site, jump
platforms or equipment.

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

Any operator or owner who knowingly permits the
operation of a commercial bungee jumping site or event
in violation of the provisions of section six of this article
is guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not more than one thousand dollars,
imprisoned in the county jail not more than twelve
months, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor