

SB 90

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

Committee Substitute for
SENATE BILL NO. 90

(By Senator Ross, et al)



PASSED March 10, 2000

In Effect ninety days from Passage

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FILED IN 101-1011
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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 90

(SENATORS ROSS, BALL, SHARPE, ANDERSON, MITCHELL,
UNGER, HUNTER AND LOVE, *original sponsors*)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen-a, relating to graves on private lands; authorizing certain persons access to cemeteries or graves on private lands for stated purposes; requiring the persons to act responsibly and making the persons liable to owners for damage; limiting the use of motor vehicles to access cemeteries and graves; creating a cause of action for injunctive relief; and application of the article.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13A. GRAVES LOCATED UPON PRIVATELY OWNED LANDS.

§37-13A-1. Access of certain persons to cemeteries and graves located on private land.

1 For the purposes set forth in section two of this article,
2 the State recognizes that the owners of private land on
3 which a cemetery or graves are located have a duty to
4 allow ingress and egress to the cemetery or graves by
5 family members, close friends and descendants of deceased
6 persons buried there, by any cemetery plot owner, or by
7 any person engaging in genealogy research who has given
8 reasonable notice to the owner of record or to the occupant
9 of the property or to both the owner and occupant. The
10 access route may be designated by the landowner if no
11 traditional access route is obviously visible by a view of
12 the property.

§37-13A-2. Purposes for which access is allowed.

1 The right of ingress and egress granted to persons
2 specified in section one of this article shall be limited to
3 the purposes of (1) visiting graves; (2) maintaining the
4 grave site or cemetery; (3) burying a deceased person in a
5 cemetery plot by those granted rights of burial to that plot;
6 and (4) conducting genealogy research.

§37-13A-3. Conduct of persons accessing cemeteries or grave sites; persons liable for damage.

1 All persons exercising access to a grave site or cemetery
2 under the provisions of this article are responsible for
3 conducting themselves in a manner that does not damage
4 the private lands, the cemetery or grave sites and are liable
5 to the owner of the private lands for any damage caused as
6 a result of their access.

§37-13A-4. Limiting the use of motor vehicles on private lands.

1 The access to a cemetery or grave site on private lands
2 conferred by this article does not include the right to
3 operate motor vehicles on the private lands, unless there is
4 a road or adequate right-of-way that permits access by
5 motor vehicle and the owner has given written permission
6 to use the road or right-of-way or way of necessity.

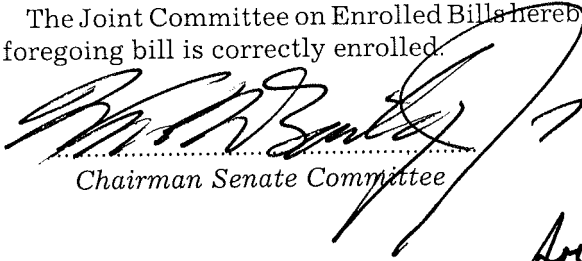
§37-13A-5. Cause of action for injunctive relief.

1 Any person denied reasonable access under the provi-
2 sions of this section, including the denial of permission to
3 use vehicular access, may institute a proceeding in the
4 circuit court of the county in which the cemetery or grave
5 site is located to enjoin the owner of the private lands on
6 which the cemetery or grave site is located, or his or her
7 agent, from denying the person reasonable ingress and
8 egress to the cemetery or grave site for the purposes set
9 forth in section two of this article. In granting such relief,
10 the court may set the frequency of access, hours and
11 duration of the access.

§37-13A-6. Application of article.

1 The provisions of this article shall not apply to any deed
2 or other written instrument executed prior to the effective
3 date of this article which creates or reserves a cemetery or
4 grave site on private property and which specifically sets
5 forth terms of access.

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



Chairman Senate Committee



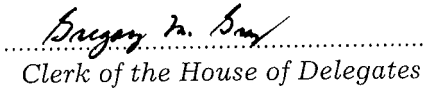
Chairman House Committee

Originated in the Senate.

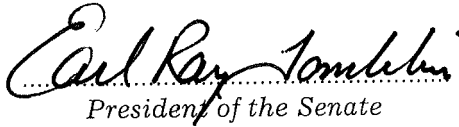
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Clerk of the Senate



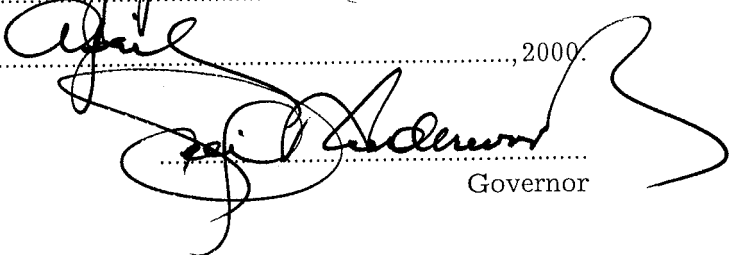
Clerk of the House of Delegates



President of the Senate



Speaker House of Delegates

The within approved this the 3rd
Day of April, 2000.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/00

Time 3:00 pm