WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 13

(Senators Nohe, Boley, Ferns, D. Hall, Karnes, Maynard, Mullins, Sypolt, Trump, Blair, Williams and Cole (Mr. President), original sponsors)

[Passed February 18, 2015; in effect from passage.]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating to the liability of a possessor of real property for injuries caused by open and obvious hazards; reinstating and codifying the open and obvious doctrine of common law as it existed prior to judicial abolition; clarifying that this section does not create, recognize or ratify claim or cause of action; stating legislative intent; and providing for judicial application.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-7-27, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-27. Limiting civil liability of a possessor of real property for injuries caused by open and obvious hazards.
(a) A possessor of real property, including an owner, lessee or other lawful occupant, owes no duty of care to protect others against dangers that are open, obvious, reasonably apparent or as well known to the person injured as they are to the owner or occupant, and shall not be held liable for civil damages for any injuries sustained as a result of such dangers.

(b) Nothing in this section creates, recognizes or ratifies a claim or cause of action of any kind.

(c) It is the intent and policy of the Legislature that this section reinstates and codifies the open and obvious hazard doctrine in actions seeking to assert liability against an owner, lessee or other lawful occupant of real property to its status prior to the decision of the West Virginia Supreme Court of Appeals in the matter of Hersh v. E-T Enterprises, Limited Partnership, 232 W. Va. 305 (2013). In its application of the doctrine, the court as a matter of law shall appropriately apply the doctrine considering the nature and severity, or lack thereof, of violations of any statute relating to a cause of action.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Vice Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 3rd Day of March, 2015.

Governor
PRESENTED TO THE GOVERNOR

Feb 28 2016

Time 9:20 AM