

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2532**

4
5 (By Delegates Staggers, L. Phillips, Hall, Martin,
6 Perry, Moore, Morgan, Mahan, Moye, Pino and Williams)

7 (Originating in the Committee on the Judiciary)

8 [February 25, 2011]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §21-15-1, §21-15-2,
12 §21-15-3, §21-15-4, §21-15-5, §21-15-6, §21-15-7, §21-15-8,
13 §21-15-9, §21-15-10, §21-15-11 and §21-15-12, all relating to
14 zipline regulation; authorizing the Division of Labor to
15 regulate ziplines; authorizing the Division of Labor to
16 propose rules for Legislative approval; requiring permits and
17 inspections; authorizing the Division of Labor to charge
18 inspection and permit fees; authorizing the Division of Labor
19 to hire or contract with inspectors; requiring notice of
20 serious physical injury or fatality; requiring investigations
21 of serious physical injuries or fatalities; providing for
22 service of process; authorizing the temporary cessation of
23 operations; insurance or bond requirements; and regulation of
24 ziplines by cities and counties.

25 *Be it enacted by the Legislature of West Virginia:*

26 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §21-15-1, §21-15-2,
2 §21-15-3, §21-15-4, §21-15-5, §21-15-6, §21-15-7, §21-15-8, §21-15-
3 9, §21-15-10, §21-15-11 and §21-15-12, to read as follows:

4 **ARTICLE 15. COMMERCIAL ZIPLINE SAFETY ACT**

5 **§21-15-1. Short title**

6 This article shall be known and may be cited as the
7 "Commercial Zipline Safety Act."

8 **§21-15-2. Definitions**

9 As used in this article:

10 (1) "Division" means the West Virginia Division of Labor.

11 (2) "Employee" means an officer, agent, employee, servant, or
12 volunteer, whether compensated or not, whether full time or not,
13 who is authorized to act and is acting within the scope of his or
14 her employment or duties with the zipline operator.

15 (3) "Operator" means any person, partnership, corporation or
16 other commercial entity and their agents, officers, employees or
17 representatives, who has operational responsibility for any
18 zipline.

19 (4) "Participant" means any person engaging in the use of a
20 zipline operated by a zipline operator.

21 (5) "Zipline" means a commercial recreational activity where
22 participants, by the use of a cable or rope line suspended between
23 support structures, enables a participant attached to a pulley to
24 traverse from one point to another, for the purpose of giving the
25 participants amusement, pleasure, thrills or excitement .

1 **§21-15-3. Rules.**

2 The division shall promulgate rules for the safe installation,
3 repair, maintenance, use, operation and inspection of all ziplines.

4 The rules shall be in addition to any existing applicable safety
5 orders and shall be concerned with the installation, repair,
6 maintenance, use, operation and inspection of ziplines. The rules
7 shall be promulgated and designed for the purpose of developing
8 ziplines as a recreational activity and additional tourist
9 attraction in West Virginia. All rules shall be promulgated in
10 accordance with the provisions of article three, chapter
11 twenty-nine-a of this code.

12 **§21-15-4. Inspection and permit fees.**

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

17 **§21-15-5. Inspectors.**

18 The division may hire or contract with inspectors to inspect
19 zipline sites.

20 **§21-15-6. Permits; application; annual inspection.**

21 (a) An operator or owner may not knowingly permit the
22 operation of a zipline without a permit issued by the division.

23 (b) Ziplines will be inspected at intervals to be determined
24 by the division, but in no event, shall a zipline be inspected less
25 frequently than once every six months.

1 §21-15-7. Issuance of permit; certificate of inspection;
2 availability to public.

3 If, after inspection, a zipline, is found to comply with the
4 rules of the division, the division shall issue a permit to
5 operate. The permit shall be in the form of a certificate of
6 inspection and shall be kept in the records of any operator or
7 owner for a three-year period and shall be readily accessible to
8 the public for inspection at any reasonable time at the zipline
9 location. A copy of certificate, showing the last date of
10 inspection, shall be affixed to the zipline upon issuance, or at
11 any other location designated by the commissioner of the division.

12 §21-15-8. Notice of serious physical injury or fatality;
13 investigations; records available to public.

14 An owner or operator of a zipline shall notify the division
15 not later than twenty-four hours after any fatality or accident
16 occurring as a result of the operation of the zipline that results
17 in a serious physical injury requiring medical treatment or results
18 in a loss of consciousness. Notice to the division may be oral or
19 written, but this notice requirement in no way limits the an
20 operators responsibility to notify emergency or law enforcement
21 personnel of the incident as soon as is reasonably practicable.
22 The division shall investigate each fatality or accident and any
23 safety related complaint involving a zipline in this state about
24 which the division receives notice. Every owner or operator of a
25 zipline shall keep a record of each accident or fatality and the

1 record shall be kept with the certificate of inspection required by
2 this article and shall be readily accessible to the public for
3 inspection at any reasonable time at the zipline or where the
4 zipline is located.

5 **§21-15-9. Service of process.**

6 Any person, firm or corporation operating a zipline may be
7 served with civil process in the same manner as if the owner or
8 operator was a domestic or foreign corporation.

9 **§21-15-10. Temporary cessation of the operation of a zipline**
10 **determined to be unsafe.**

11 The division may order, in writing, a temporary cessation of
12 operation of a zipline if it has been determined after inspection
13 to be hazardous or unsafe. Operation may not resume until the
14 conditions are corrected to the satisfaction of the division.

15 **§21-15-11. Insurance; bond.**

16 No person may operate a zipline unless at the time there is in
17 existence (a) a policy of insurance approved by the division and
18 obtained from an insurer authorized to do business in this state in
19 an amount of not less than \$1,000,000 per person, \$1,000,000 per
20 occurrence and \$50,000 for property damage with coverage extending
21 to any employee of the operator in the course of their duties as an
22 employee, or (b) a bond in a like amount, as approved by the
23 division: Provided, That the aggregate liability of the surety
24 under any bond may not exceed the face amount thereof, or (c) cash
25 or other security acceptable to the division. Satisfactory

1 evidence of insurance, bond or other security shall accompany the
2 permit application.

3 **§21-15-12. Regulation of ziplines by cities and counties.**

4 Nothing contained in this article prevents cities and counties
5 from regulating ziplines with regard to any aspect not relating to
6 installation, repair, maintenance, use, operation and inspection of
7 the zipline.